

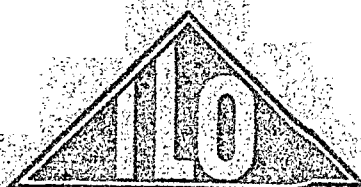
Double-Discussion Procedure:
REPORT A

International Labour Conference

TWENTY-SIXTH SESSION
GENEVA, 1940

WEEKLY REST IN COMMERCE AND OFFICES

Second Item on the Agenda



INTERNATIONAL LABOUR OFFICE
GENEVA, 1939

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REPORT A**

International Labour Conference

TWENTY-SIXTH SESSION
GENEVA, 1940

**WEEKLY REST
IN COMMERCE AND OFFICES**

Second Item on the Agenda

INTERNATIONAL LABOUR OFFICE
GENEVA, 1939

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CONTENTS

	Page
INTRODUCTION	VII
CHAPTER I: <i>Elements and Structure of the National Regulations</i>	1
A. History of Weekly Rest Legislation	1
B. Nature and Form of the Regulations	3
§ 1. Legislation	3
§ 2. Collective Rules	8
§ 3. Arbitration and Wage Board Awards and Decisions of Joint Bodies	8
§ 4. Collective Agreements	9
§ 5. Other Forms of Regulations	9
C. The Regulations in Force	9
CHAPTER II: <i>Scope</i>	28
A. Methods of Determination	28
§ 1. Regulations Applying Explicitly to Certain Classes of Establishments	29
§ 2. Regulations the Scope of which is Determined by the Nature of the Activities Engaged in	33
§ 3. Regulations the Scope of which is Defined in Terms of the Persons Covered	34
B. Scope as regards Establishments	34
I. Classes of Establishment and Activity Covered	34
§ 1. Regulations of General Scope	35
§ 2. Regulations of Limited Scope but covering Several Classes of Establishment or Activity	37
§ 3. Regulations applying to a Single Class of Establishment or Activity	40
§ 4. Regulations of Varying Scope	42
§ 5. Supplementary Definitions regarding Certain Classes of Establishment or Activity	42
II. Classes of Establishment or Activity Exempted	45
§ 1. General Exemptions	46
§ 2. Exemptions based on the Nature of Certain Activities	46
§ 3. Exemption of Certain Kinds of Work	48
§ 4. Exemptions based on the Size of the Establishment	49
§ 5. Exemptions based on Geographical Considerations	50

	Page
C. Scope as regards Persons	51
I. Persons Covered	52
§ 1. Regulations applying alike to Employers, Workers and Persons working on their own Account	52
§ 2. Regulations applying to Employed Persons	55
II. Persons Exempted	60
§ 1. Exemption of Employers	61
§ 2. Exemption of Certain Classes of Workers	61
CHAPTER III: <i>General System of Weekly Rest</i>	70
A. Intervals at which the Weekly Rest is Granted	70
§ 1. Weekly Rest One Day in Seven	70
§ 2. Weekly Rest at Intervals other than One Day in Seven	71
B. Day on which the Weekly Rest is Granted	71
§ 1. Weekly Rest on Sunday	71
§ 2. Weekly Rest on a Day other than Sunday	74
§ 3. Weekly Rest Day Unspecified	74
C. Minimum Period of Weekly Rest	75
§ 1. Minimum Period of the Weekly Rest Itself	75
§ 2. Weekly Half or Whole Holidays contiguous to Weekly Rest Days.	76
§ 3. Weekly Half Holidays not contiguous to the Rest Day	77
§ 4. Influence of Closing Regulations on Weekly Rest	78
CHAPTER IV: <i>Special Systems of Weekly Rest</i>	79
A. Systems applicable to Certain Classes of Establishments or Activities	80
§ 1. Establishments engaged in Wholesale Trade	81
§ 2. Establishments engaged in Retail Trade	82
§ 3. Chemists' Shops	96
§ 4. Money-changing Offices and Travel Agencies	100
§ 5. Hotels, Cafés and Restaurants	101
§ 6. Entertainment Undertakings	105
§ 7. Hospitals and Similar Establishments.	108
§ 8. Postal and Telecommunication Services	111
§ 9. Newspaper Undertakings	114
§ 10. Miscellaneous	116
B. Systems applying to Certain Localities or Regions	118
§ 1. Systems determined according to the Size of the Locality	119
§ 2. Systems determined according to the Seasonal Nature of the Activities of the Locality	123

	Page
C. Systems applying to Certain Professional Activities or Persons	127
§ 1. Work consisting primarily of Simple Attendance or Watch Duty	127
§ 2. Work of Cleaning, Upkeep, Maintenance, etc.	132
D. Systems applying to Special Religious Groups	135
CHAPTER V: <i>Exceptions</i>	138
A. Reasons for Exceptions	139
§ 1. Exceptions for Stocktaking, Preparation of Balance Sheets, etc.	140
§ 2. Exceptions in connection with Public Holidays	140
§ 3. Exceptions authorised during Fairs, Markets, Seasonal Sales, etc.	141
§ 4. Exceptions in case of Accident, Actual or Threatened, or other cases of <i>force majeure</i>	142
§ 5. Exceptions for Economic Reasons	144
§ 6. Exceptions for Reasons of General or Public Interest	146
B. Nature of Exceptions	147
§ 1. Exceptions affecting the Length of the Weekly Rest	147
§ 2. Exceptions affecting the Day on Which the Weekly Rest is granted	152
C. Compensation	153
§ 1. No Compensation	153
§ 2. Compensation in the Form of Time Off	154
§ 3. Compensation in the Form of Increased Rates of Remuneration	158
§ 4. Compensation in the Form of Time Off or Increased Rates of Remuneration	159
§ 5. Combination of Both Forms of Compensation	160
D. Procedure	160
§ 1. Exceptions permitted automatically under the Law	161
§ 2. Exceptions permitted automatically under Special Provisions	162
§ 3. Exceptions requiring Special Authorisation	164
E. Suspension of Regulations or Authorisation of Exceptions for Reasons of State	165
§ 1. Suspension of the Regulations	165
§ 2. Exceptions	166
CHAPTER VI: <i>Enforcement Measures</i>	167
A. Supervision of the Application of the Regulations	167
§ 1. General Prohibition of Work on the Usual Weekly Rest Day	167

	Page
§ 2. Obligations on Employers intended to permit and facilitate Supervision.	167
§ 3. Obligations on Workers	177
§ 4. Supervision	177
B. Penalties	182
§ 1. Offences Subject to Penalty	182
§ 2. Persons liable to Penalty	182
§ 3. Authority Responsible for Application of Penalties.	184
§ 4. Nature of Penalties	184
CHAPTER VII: <i>Conclusions and Commentary on the Questionnaire</i>	186
I. Form of the Regulations	186
II. Scope	187
III. General System of Weekly Rest	204
IV. Special Systems of Weekly Rest	207
V. Exceptions to the Weekly Rest	215
VI. Special Provisions for Certain Countries	218
VII. Safeguarding Clause	219
VIII. Supervision of the Application of the Regulations . .	220
IX. Suspension of the Application of the Regulations . .	223
X. Annual Reports	223
CONSULTATION OF GOVERNMENTS.	225
QUESTIONNAIRE	225

INTRODUCTION

At its Eighty-sixth Session (February 1939) the Governing Body of the International Labour Office decided to place on the agenda of the 1940 Session of the International Labour Conference the question of the weekly rest in commerce and offices.

This is not the first time that this question comes before the Conference.

As far back as 1921, the Third Session of the Conference had on its agenda the question of the weekly rest-day in industrial and commercial employment. It adopted a Convention on the weekly rest in industrial undertakings, but dealt with the weekly rest in commercial establishments by way of a Recommendation. The latter decision was taken because the Conference Committee which dealt with the subject came to the conclusion, after long discussion, that in view of the inadequacy of national legislation at the time it was not possible to adopt a Convention.

As the years passed legislation was adopted in a large number of countries regulating the weekly rest in commerce and offices.

As a result of the progressive development of national legislation in this field the attention of the Governing Body was drawn in 1936, 1937 and 1938 to the desirability of the inclusion of the question on the agenda of the Conference.

The Governing Body, in deciding at its Eighty-sixth Session (February 1939) to place the question on the agenda of the 1940 Session of the Conference, agreed that it should be treated by the double discussion procedure provided for by the revised Standing Orders adopted by the Conference at its 1938 Session.

This report has been prepared in accordance with these revised Standing Orders. It contains a statement of the law and practice in the different countries on the question of the weekly rest in commerce and offices, followed by a questionnaire.

On the basis of the replies of Governments to this questionnaire, the Office will prepare a second report, indicating the principal questions requiring consideration by the Conference in 1940.

If the Conference, after a first discussion for which the present report and the second report will provide the basis, decides that the subject shall be placed on the agenda of the next session of the Conference for second discussion, the Office will prepare a third report which may contain one or more proposed Draft Conventions or Recommendations and transmit it to Governments in order that they may make comments on, or suggest amendments to the proposed texts.

Lastly, the Office will prepare, in the light of the observations made by Governments, a fourth report containing the texts of proposed Draft Conventions or Recommendations which will be submitted for final decision by the Conference at its session of 1941.

In accordance with this revised procedure, Governments are now requested to reply, giving their reasons, to the questions in the questionnaire appearing at the end of this report.

CHAPTER I

ELEMENTS AND STRUCTURE OF THE NATIONAL REGULATIONS

In order to provide a background for the detailed analysis of the various aspects of the regulation of the weekly rest in commerce and offices contained in this report, an introductory survey of the history, elements and structure of the national regulations is given in the present chapter. This is followed by a description of the regulations in force in the 55 countries covered by the report.

A. — *HISTORY OF WEEKLY REST LEGISLATION*

Weekly rest legislation has a double origin, religious and social. Its religious antecedents date back to far before the times of labour legislation. The earliest recorded law of the Christian era directing rest from labour on Sunday was decreed in 321 A.D. by the Emperor Constantine, who laid down that on Sundays "magistrates and people residing in cities" should rest and all workshops should be closed, and since this law was embodied in the Code of Justinian it may be claimed as the forerunner of the weekly rest legislation of the modern world.

In all Christian, Jewish and Moslem communities religion enjoins a weekly day of rest, whether it be Sunday, Saturday or Friday. This has usually been observed as a matter of religious custom and deeply rooted tradition backed by the authority of the Church and not requiring the sanction of civil law. Nevertheless, records survive of various attempts to secure Sunday as a day of rest by law during the Middle Ages, while after the Reformation, in communities with a strong Puritan tradition, the law stepped in more than once to secure the better observance of Sunday by making illegal the performance of

work or carrying on of trade. To this outlook are due, besides the English Sunday Observance Act of 1677, still on the statute book, a series of similar laws established in the New World by the early colonists and beginning with a Virginian law of 1617. These laws, too, in many cases still remain to-day on the statute books of many of the States of the United States of America and of the Canadian Provinces.

Sunday rest laws, from the Fourth Commandment downwards, have always been social as well as religious in intention, seeking to provide a periodical rest from daily toil as well as an opportunity for religious observance. It was not until the end of the nineteenth century, however, that the weekly rest began to be dealt with primarily as a problem of industrial conditions by labour legislation. Early labour codes or industrial codes, for instance in France and Germany, laid down the principle of one day's rest in the week and during the first decade of the twentieth century many industrial countries made provision for a weekly rest in commerce as in industry, either by special weekly rest laws or in connection with the regulation of hours of work and other conditions of employment. In commerce, indeed, the question of the weekly rest was often dealt with before that of hours of work. Owing to the difficulty of enforcing restrictions on hours of employment in shops, offices and other such establishments the problem was attacked from a different angle and attempts were made to see that employees had sufficient rest either directly, by prescribing the length of daily and weekly rests, or indirectly, by means of shop-closing laws and regulations.

During the striking advance in labour legislation that followed the World War and the creation of the International Labour Organisation provisions to ensure a weekly rest in commerce were consolidated, improved and extended. The right to one day's rest in seven is one of the principles included in the Constitution of the Organisation and is laid down in all modern labour codes as a fundamental right of the worker. The extension to commerce of hours of work legislation introducing an 8-hour day and a 48-hour week in itself implies a weekly day of rest, even where this is not expressly stipulated, but practically all recent legislation in this field also includes specific provision for one day's rest a week. Moreover, it is not to-day considered sufficient, as under the older legislation, merely to except employees in occupations where Sunday work

is necessary. Contemporary legislation seeks by a system of rotation or otherwise to establish the principle that every employee, whatever his calling, shall enjoy the benefits of a weekly day of rest.

B. — *NATURE AND FORM OF THE REGULATIONS*

The methods by which the weekly rest in commerce is regulated are classified below. They consist of legislation (including laws and regulations of all kinds), which is the principal form of regulation, and, as supplementary measures, arbitration or wage-board awards and decisions of joint bodies, collective agreements and miscellaneous other methods such as staff regulations, private contract and custom.

§ 1. — Legislation

Legislative provisions concerning the weekly rest exist in a great many countries for all or some classes of commercial employees. As a result of the historical background of the weekly rest legislation sketched above and of the customs and traditions of different countries this legislation is, broadly speaking, of three types: laws of a civil or religious character, shop-closing laws or regulations and labour legislation proper. These three types of regulation to some extent overlap and influence each other, but they have certain individual features which may usefully be borne in mind.

GENERAL CIVIL OR RELIGIOUS LAWS

The special feature of this type of legislation is that its original purpose was to secure strict religious observance of Sunday rather than to provide each worker with a weekly day of rest, although, of course, the result of prohibiting work in general, trade in shops, the holding of entertainments and other activities is to release the persons employed in these activities from their work on Sundays. Consequently, these laws do not, as a rule, apply to a specified field of activity defined in terms of undertakings or of employed persons, but are couched in absolutely general terms, prohibiting work in general or buying

and selling and the carrying on by any person, whether employer or employee, of his ordinary business or calling, except in cases of "necessity and mercy".

The fact that these laws form part of the civil or criminal code and are founded on the general police power of the State enables them to be enforced in countries in which constitutional difficulties impede the enactment of general labour legislation. Thus, in Canada the right of the Dominion Government to enact a Dominion Lord's Day Act is undisputed, whereas the constitutionality of a Dominion Hours of Work Act has been successfully contested; while in the United States of America State laws prohibiting Sunday labour, although sometimes condemned in the past as a violation of the principle of religious freedom, have latterly been generally upheld on the grounds that they are social and economic in their effect and based on the right of the Government "to protect all persons from the physical and the moral debasement which comes from uninterrupted labour".

As regards the form of these laws, some of which are of considerable antiquity and are no longer strictly enforced, most of them are Sunday observance laws. These are found chiefly in the English-speaking countries, but similar measures also exist in Denmark and in the Netherlands. As a rule they prohibit all activities except works of necessity and mercy, but in South Africa the provincial measures in force in the Cape of Good Hope and in Natal apply only to trading. In Sweden a prohibition of Sunday work forms part of the Penal Code, and in New Zealand it is contained in the Police Offences Act.

SHOP-CLOSING LEGISLATION

Shop-closing legislation applies only to one section, although to one of the largest and most important sections, of commercial employment — that of retail trade, including as a rule restaurants and cafés. It stands half-way between the civil and religious laws described above and labour legislation proper. Like the former, it applies, so far as the shop-closing provisions are concerned, to employers as well as employees. Moreover, one of its objects is to safeguard the interests of the shopkeepers themselves by imposing general trading hours and thus preventing unfair competition. Sometimes, however, these

provisions are contained in legislation to regulate the general conditions of employment in shops, which is included below under the head of labour legislation proper.

Shop-closing or Sunday-trading legislation is, in some cases, the only operative method of regulating the weekly rest in commerce by law, as in Great Britain, while in others it co-exists with hours of work laws or other measures applying to the individual employee, as in Ireland. Its special feature is that it provides in most cases for a weekly half-holiday for all shop assistants on Saturday or some other day of the week apart from the general provisions for shop closing on Sunday. This is a matter which, strictly speaking, depends on the distribution of weekly hours of work, but may also be considered in connection with the weekly rest, especially when, as often happens, the early closing day is fixed on Saturday.

Sunday shop-closing provisions may be embodied in Shops Acts, as in Tasmania, in Early Closing Acts, as in South Australia, or in Sunday Trading Acts, as in Great Britain. They usually cover all shops, with special provisions for particular establishments such as hairdressers' and barbers' shops, pastrycooks' shops and restaurants or other establishments which usually operate on seven days in the week. In some cases, however, there are separate measures for establishments with special requirements.

A special form of enactment which may conveniently be classified with shop-closing legislation, although it is somewhat wider in scope, is in force in Italy and Chile, requiring work in commercial establishments to cease at 1 p.m. on Saturday. Although the practice of observing a Saturday half-holiday in all kinds of offices as in shops is very general, it is not usually prescribed by law but observed in virtue of custom or collective agreements.

LABOUR LEGISLATION

Labour legislation is the general direct method of regulating the weekly rest in commerce by law. Its object is to secure for every worker, quite apart from any question of religious observance, a regular periodical break in his work.

The labour legislation regulating weekly rest may be divided roughly into two classes: general legislation, which regulates

the weekly rest among other conditions of employment either for all commercial employees or for certain classes, and special legislation concerning the weekly rest alone.

General Labour Legislation

The right to one day's rest in seven is one of the fundamental rights secured to the workers in some countries by the constitution, as, for instance, in Brazil and Mexico, or by some other general measure such as the Italian Labour Charter and Labour Codes, both in the older industrial countries and in those which have adopted comprehensive codes in recent years. Usually this principle is framed in quite general terms and special laws or regulations are required to put it into operation.

These measures apply, with a few exceptions, to all employed persons whatever the nature of their occupation. Certain hours of work Acts also contain provisions dealing with the weekly rest both in industry and in commerce. Other regulations dealing with the weekly rest incidentally to other conditions of employment — whether independent or issued under general codes or Acts — apply to commercial employees only or to certain classes of them. These may be Acts concerning conditions of employment in commercial establishments, such as that recently adopted in Estonia, or Shops Acts, as in some South African provinces and Australian States and in Ireland. Some of this legislation relates to commercial establishments generally, but most of it applies to shops alone. A number of measures also exist to regulate conditions of employment in special kinds of shops, such as bakeries, chemists' shops and barbers' shops. As already stated, some of these measures are closely connected with Sunday trading or shop-closing regulations, in so far as these indirectly regulate the weekly rest.

In some cases weekly rest provisions are found in separate measures to regulate conditions of employment or hours of work for particular classes of employees other than shop assistants. In Germany, for instance, there is an Order regulating hours of work in hospitals and similar institutions. Brazil has a series of decrees applying to such varied branches as banks, hotels, places of amusement and newspaper undertakings, and under the Netherlands Labour Act regulations have been issued for a variety of non-industrial occupations. Moreover, certain

countries have legislation regulating hours of work, and rest periods in road transport, which also covers transport workers in commercial undertakings.

General hours of work legislation, including weekly rest provisions, sometimes applies to the civil service, as in Latvia, where orders have been issued applying to post office, telephone and telegraph workers and to civil servants, respectively. Bulgaria has a separate Civil Service Act. In most countries, however, the conditions of employment of civil servants and other employees in public departments are laid down by special staff regulations or by Government resolutions.

- It should be pointed out that, even where it contains no specific provision for a weekly day of rest, hours of work legislation providing for an 8-hour day and a 48-hour week, such as now exists in the great majority of countries, normally implies a 5½ or 6-day week and consequently the granting of one free day a week. It does not, it is true, ensure that the weekly rest shall be a consecutive period, but this is usually a matter of custom and is often provided in the case of shop assistants by shop-closing legislation and in some other cases by collective agreement.

Weekly Rest Legislation

Legislation regulating the weekly rest in commerce apart from other conditions of employment consists, in addition to the civil or religious measures already mentioned, mainly of Sunday Rest Acts or Weekly Rest Acts. Those enactments which, although they have generally been amended and improved in the course of time, date back to the first decade of this century, such as are in force in Spain and Belgium, are usually Sunday Rest Acts, and some of them, by prohibiting all the activities they specify, apply alike to employers and employees. Italy has a Sunday and Weekly Rest Act, and some of the more recent measures, such as those adopted in Turkey and Uruguay, are Weekly Rest Acts. In Canada and the United States of America the legislation takes the form of One Day's Rest in Seven Acts. In Latvia and some other countries the Acts relate to Sundays and public holidays. As a rule all these are general measures covering commerce together with other activities. In some cases, however, Sunday rest legislation applies only to one kind of establishment, as in the case of the

English Sunday Entertainments Act or the Acts to regulate the weekly rest in hairdressers' and chemists' shops in Uruguay. In these cases, however, the separate measures often merely lay down special schemes for establishments excluded from the general legislation.

General Sunday or weekly rest laws do not always make adequate provision for a weekly rest for each individual worker in all non-industrial occupations, because in some cases they merely exempt workers in establishments which necessarily operate on seven days a week. Their shortcomings in this respect are sometimes made good by collective agreements or other non-legislative methods of regulation.

§ 2. — Collective Rules

In Germany collective rules which regulate matters formerly dealt with by collective agreements and have the force of regulations play an important part in regulating the weekly rest in commerce within the framework of the law.

§ 3. — Arbitration and Wage Board Awards and Decisions of Joint Bodies

Decisions of arbitration authorities or wages boards in Australia, New Zealand and South Africa sometimes include provisions concerning the weekly day of rest and Sunday work. Where awards co-exist with Sunday observance laws or other legal prohibitions of Sunday work these provisions often settle the conditions under which work exempted from the general prohibition may be performed, in particular as regards compensation in the form of time off or payment at higher rates. They also influence the length of the weekly rest by their provisions concerning the distribution of hours of work over 6, 5½ and sometimes 5 days.

The same function is performed by collective agreements made by representative bodies in South Africa under the Industrial Arbitration Act, in Italy and other corporatively organised countries and in Spain in the form of standard rules of employment. All these decisions are binding on the parties and usually also on the whole occupation within the area covered.

§ 4. — Collective Agreements

Collective agreements voluntarily concluded and applied sometimes also contain provisions concerning Sunday work and pay. Their importance is less here than in certain other fields of regulation, however, even in those countries where these agreements are a usual method of regulating conditions of employment.

§ 5. — Other Forms of Regulation

Staff regulations, private contract and national or local customs play an important part in the regulation of conditions of employment in the public services, commerce, offices and similar occupations. In the case of the weekly rest in particular a special reminder is needed of the important part played by custom. Religious belief and custom in many countries ensure strict observance of the weekly rest, irrespective of any legislation in force.

C. — THE REGULATIONS IN FORCE¹

Argentina. — The weekly rest, in contrast to hours of work, is one of the subjects on which, in virtue of the Federal character of the Government, the National Congress cannot enact legislation applicable to the whole country. The Federal legislation is applicable only to the Federal Capital (city of Buenos Ayres) and to the National Territories, and consists of Act No. 4661 of 31 August 1905² concerning the Sunday rest and Decree No. 16,117 of 16 January 1933³, as amended in minor particulars at various later dates. This legislation covers all manual work with the sole exception of domestic service.

The various provinces have issued decrees which, although varying in details of local application, follow very closely the main lines of the Federal legislation.

¹ In the notes to the following pages, the letters *L.S.* refer to the *Legislative Series* issued by the International Labour Office, and the letters *B.B.* to the *Bulletin* of the former International Labour Office at Basle.

² *B.B.*, 1905, Vol. IV, p. 343 (French edition).

³ *Boletín oficial*, 28 January 1933, p. 961.

Australia. — The weekly rest in commerce is regulated by State laws and arbitration awards or wages board determinations. Sunday observance laws, based on the old British statutes, are still on the statute books; the Sunday Observance Act of Tasmania, revised in 1908 ¹, is analysed in this report. The questions of Sunday work and the weekly rest proper are dealt with by Factories and Shops Acts, Shop Closing Acts and Arbitration Act and awards.

In New South Wales, arbitration awards have superseded all other kinds of regulation and exist for practically all occupations, whether industrial or commercial. In Victoria, the Factories and Shops Acts ² contain provisions concerning the weekly rest of shop assistants, employees in restaurants, hotels and similar establishments, carters and watchmen. Wages Board determinations contain special clauses concerning Sunday work or weekly time off for certain occupations, such as nursing. In Queensland, the Factories and Shops Act, 1922, contains some provisions concerning shop assistants and carters but its provisions have been superseded by arbitration awards under the Industrial Arbitration Act, 1933 ³, which provides for one day's rest in seven; these cover practically the whole field of employment. In Western Australia again, certain provisions concerning shop assistants and shop closing are found in the Factories and Shops Act ⁴. These, however, may be overridden by arbitration awards which, in fact, are the main form of regulation. In South Australia, the Early Closing Act, 1926 ⁵, affects the weekly rest of shop assistants and employees in hotels and similar establishments. Industrial board determinations also sometimes contain clauses relating to Sunday work. In Tasmania, apart from the Sunday Observance Act mentioned above, relevant provisions are contained in the Shops Act, 1925 ⁶, and in wages board determinations for certain occupations.

Commonwealth awards applying to all or several States and containing provisions for Sunday work and weekly time off exist for only a few non-industrial occupations. They include awards for carters and drivers, butchers' employees, broadcasting employees and actors. Unless a saving clause is included

¹ B.B., 1910, p. 260.

² L.S., 1929, Austral. 13; 1934, Austral. 11.

³ L.S., 1933, Austral. 1.

⁴ L.S., 1938, Austral. 1.

⁵ 17 Geo. V, No. 1744.

⁶ 16 Geo. V, No. 29; Acts, 1937, Vol. XXXV, p. 493.

in the award, Commonwealth awards override State laws or awards where the two co-exist for the same occupations. For Commonwealth public servants the weekly rest is dealt with by staff regulations and by awards of the Public Service Arbitrator.

Belgium. — The Sunday Rest Act of 17 July 1905, as amended on 24 July 1927 ¹, regulates the weekly rest in commercial establishments as well as in industrial undertakings and makes detailed provision for a weekly rest in a large number of establishments. Royal Orders applying principally to shops and hairdressers' shops in various localities have been issued at various times under the Act. Clerks in solicitors' offices, to whom the 1905 Act did not apply, are covered by a special Act of 26 May 1914. Certain supplementary provisions concerning retail shops ², pastrycooks' shops ³, public services ⁴ and hotels and restaurants ⁵ have been issued under the Eight-Hour Day Act of 14 June 1921.

Bolivia. — The weekly rest is regulated by a Sunday Rest Act of 23 November 1915 ⁶, supplemented by a Decree of 30 August 1927 ⁷. A Decree of 26 May 1936 ⁸ specifies that Sundays shall be regarded as holidays and, therefore, as complete rest days under the Act concerning salaried employees.

Brazil. — There is no special weekly rest legislation in Brazil. The principle of a weekly rest is laid down in the Constitution and provision for one day's rest in the week is made in the hours of work legislation. The latter comprises the Decrees of 22 March 1932 and 29 October 1932 ⁹ concerning hours of work in commerce, which were extended to offices on 26 May 1938 ¹⁰, and a series of other Decrees applying to specified classes of undertakings, i.e. banks, pawnbrokers' shops, hotels, restaurants, chemists' shops, places of amusement, wireless, telegraph and

¹ L.S., 1927, Bel. 6, A and B.

² L.S., 1926, Bel. 4, P.

³ L.S., 1927, Bel. 3, B.

⁴ L.S., 1926, Bel. 4, N.

⁵ *Moniteur Belge*, 18 June 1937, p. 3835.

⁶ *Legislación Minera, Petrolera y Social*, 1928, p. 395.

⁷ *Ibid.*, p. 397.

⁸ *El Diario*, 27 May 1936.

⁹ L.S., 1932, Braz. 2, A and B.

¹⁰ *Diario Oficial*, 30 May 1938, No. 122, p. 10,485.

telephone services, hairdressers' shops ¹ and newspaper undertakings ².

Bulgaria. — The weekly rest is regulated by two kinds of measures: the Act of 7 February 1911 ³, concerning holidays and Sundays on the one hand, and the Act on the health and safety of the workers of 15 June 1917, as subsequently amended on various occasions ⁴, and the Decree of 30 May 1936, concerning hours of work in commercial undertakings ⁵ on the other. The 1911 Act prescribes that Sunday shall be a day of rest, while the Acts of 1917 and 1936 provide for a weekly rest of 36 hours for every employee, to fall on Sunday wherever possible. For civil servants, such as post office employees, the weekly rest is regulated by the Civil Servants Act of 1922.

Canada. — The regulation of the weekly rest is partly within Dominion and partly within provincial jurisdiction. The observance of Sunday as a day of rest is prescribed under the Criminal Code by the Dominion Lord's Day Act ⁶, which is applicable throughout the Dominion, while labour legislation, which is within the jurisdiction of the provincial parliaments, plays its part in the regulation of the weekly rest in the form of laws providing for one day's rest in seven and certain shop-closing measures.

Besides the Dominion Act, provincial Sunday Observance or Lord's Day Acts also exist in Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec. Weekly rest laws, forming part of the Labour Code, are represented in Manitoba and Ontario by One Day's Rest in Seven Acts ⁷, in Quebec by the Weekly Day of Rest Act supplemented by an Order in Council of 23 January 1935 ⁸ and in Saskatchewan by an Act to provide for one day of rest in seven for certain employees ⁹. Shop-closing regulations affect the weekly rest in British Columbia (Shop Regulations Act, 1936) ¹⁰, Manitoba

¹ *L.S.*, 1933, Braz. 1 and 1934, Braz. 1.

² *Diario Oficial*, 3 December 1938, No. 278, p. 24,335.

³ *Drjaven Vestnik*, No. 36, 7 February 1911.

⁴ For the consolidated text with amendments up to 1930, cf. *L.S.*, 1932, Bulg. 3, B.

⁵ *L.S.*, 1932, Bulg. 2.

⁶ *Labour Regulation in Canada*, 1937, p. 21.

⁷ *Ibid.*, pp. 408 and 295.

⁸ *Ibid.*, p. 225.

⁹ *L.S.*, 1930, Can. 7.

¹⁰ *Labour Regulation in Canada*, 1937, p. 677.

(Early Closing Act, 1913)¹ and Ontario (Factory, Shop and Office Building Act, 1937)². For post office and other Dominion Government employees, a weekly rest is ensured by an Act of 1930 concerning the eight-hour day for Dominion Government employees³.

Chile. — The Labour Code of 13 May 1931⁴ contains a special part dealing with the Sunday rest and public holidays. This is completed by a Presidential Decree of 24 June 1932⁵, prescribing the closing of all industrial and commercial establishments at 1 p.m. on Saturday and by a number of other Decrees laying down special provisions for establishments excluded from the general scheme.

China. — There is no legislation concerning the weekly rest in commerce and offices in China. Periodical days of rest are granted by a number of large firms under their rules of employment for instance in Shanghai, but there is no uniformity of practice as regards either the frequency or the length of the rest period.

Colombia. — The weekly rest in commerce is regulated by general weekly rest legislation in the form of Act No. 57 of 16 November 1926⁶ to establish a Sunday rest, as amended by Act No. 72 of 28 May 1931⁷, and regulations issued by Decree No. 1278 of 23 July 1931⁸.

Cuba. — A weekly rest is directly provided for only in the case of persons employed in newspaper undertakings, under a Legislative Decree of 28 August 1931⁹, and in bakeries, under a Decree of 27 December 1928¹⁰. The Sunday rest is secured indirectly in most shops by an Act of 20 July 1933¹¹ concerning trading hours in commercial establishments, supplemented by

¹ *Ibid.*, p. 372.

² *Ibid.*, p. 306.

³ *Ibid.*, p. 56.

⁴ *L.S.*, 1931, Chile 1.

⁵ *L.S.*, 1932, Chile 6 A.

⁶ *L.S.*, 1926, Col. 2.

⁷ *L.S.*, 1931, Col. 1 A.

⁸ *L.S.*, 1931, Col. 1 B.

⁹ *L.S.*, 1934, Cuba 8; amendment, *Gaceta Oficial*, 3 July 1935, No. 121, p. 3.

¹⁰ *L.S.*, 1928, Cuba 1 B.

¹¹ *L.S.*, 1933, Cuba 1 A.

two Acts of 3 May 1935 ¹, and an Act of 7 November 1933 ² concerning the closing times for chemist's shops.

Denmark. — There is no legislation specifically providing for a weekly rest in commerce. An Act of 7 April 1936 ³, concerning rest on holidays of the Danish National Church, prohibits certain activities on Sundays for all persons with a view to preventing noise. The Shop Closing Act of 14 April 1932, as amended on 20 May 1933 ⁴, ensures the Sunday rest for the majority of shop assistants, while an Act of 6 April 1906 ⁵ concerning conditions of employment in bakeries makes definite provision for a weekly rest for all bakery employees.

Dominican Republic. — The weekly rest is regulated by Act No. 929 of 21 June 1935 ⁶, respecting hours of work in commercial and industrial establishments.

Ecuador. — The Labour Code of 5 August 1938 ⁷, which repeals all the legislation previously issued as isolated measures, contains clauses providing for a weekly rest of one and a half days for all employed persons.

Egypt. — Legal provisions concerning the weekly rest at present exist only for women, under Act. No. 80 of 10 July 1933 ⁸ to issue regulations for the employment of women in industry and commerce, which provides that every woman shall have a weekly rest of 24 hours.

Estonia. — An Act of 20 April 1938 ⁹ regulates hours of work and rest periods in commercial establishments and offices, while shop-closing provisions issued under an old Russian Act of 15 November 1906 as amended on 12 September 1907 and 11 July 1930 ¹⁰ concerning regular rest periods for employees

¹ L.S., 1935, Cuba 6 A and B.

² L.S., 1933, 1 B.

³ *Lovtidenden A*, No. 12, 8 April 1936, p. 508.

⁴ L.S., 1932, Den. 1; 1933, Den. 8.

⁵ B.B., 1906, Vol. I, p. 177.

⁶ L.S., 1935, Dom. 1.

⁷ *Registro Oficial*, 6 November 1938, Nos. 78-81, p. 1.

⁸ L.S., 1933, Egypt 2.

⁹ *Riigi Teataja* 1938, No. 42, Article 400.

¹⁰ L.S., 1930, Est. 2.

in commercial establishments, warehouses and offices, are still in force and affect the weekly rest to some extent. An Order of 10 March 1936¹ regulates hours of work and rest periods in chemists' shops. Employees of local post offices are covered by a special Order of 14 September 1933².

Finland. — The weekly rest in commerce is regulated by the hours of work legislation. The 8-Hour Day Act of 27 November 1917³ applies to commercial establishments, warehouses and offices, hotels, restaurants and cafés, and an Act of 8 September 1934⁴ regulates in detail conditions of employment in commercial establishments and offices. The weekly rest is also affected indirectly by another Act of the same date concerning hours of business in commercial and other establishments⁵.

France. — The fundamental provisions regulating the weekly rest in France were laid down by the Act of 13 July 1906, which is embodied in Book II of the Labour Code⁶, as amended on various occasions, and are supplemented by regulations issued under a Decree of 14 August 1907⁷. Measures of enforcement are prescribed by a Decree of 24 August 1906 as amended on 13 July 1907⁸. The duration of the weekly rest is also affected by various Decrees under the Hours of Work Act of 21 June 1936 providing for the distribution of the working week over 5½ or 5 days.

Germany. — The weekly rest in commerce, as in industry, is regulated on the basis of the Industrial Code of 21 June 1869 in the text of 1900⁹, as amended on various occasions. The principles laid down in the Code have been applied by various measures, the most important of these being the Order concerning Sunday rest in commerce and in chemists' shops of 5 December 1919¹⁰, the Order concerning observance of Sundays and public holidays of 16 March 1934¹¹ and a Ministerial circular

¹ *Riigi Teataja* 1936, No. 20, Article 137.

² *Riigi Teataja* 1933, No. 76, Article 563.

³ *Suomen Asetuskokoelma* 1918, No. 95.

⁴ *L.S.*, 1934, Fin. 4.

⁵ *L.S.*, 1934, Fin. 1.

⁶ Ch. PIQUENARD: *Code du Travail annoté*; Recueil Sirey, Paris, 1939, p. 134.

⁷ *Idem*, p. 299.

⁸ *Idem*, p. 297.

⁹ *Reichsgesetzblatt*, 1900, p. 871.

¹⁰ *Reichsgesetzblatt*, 1919, p. 176.

¹¹ *L.S.*, 1934, Ger. 2 B.

The weekly rest of persons employed in commercial establishments is also regulated by collective agreement.

Greece. — The regulation of the weekly rest in commerce is based on the Sunday Rest Act of 3 December 1909 and its various amendments, as last consolidated on 8 March 1930 ¹. A number of Decrees have been issued at various times under this legislation applying to special kinds of shops or special localities. Shop-closing provisions contained in the legislation concerning hours of work in commercial establishments also affect the weekly rest, in particular the Decree of 8 August 1932 ² and 10 June 1935 ³.

Guatemala. — The weekly rest is regulated by a Chapter of the Labour Act promulgated by a Decree of 30 April 1926 ⁴ and by regulations issued thereunder.

Haiti. — General provisions concerning the weekly rest are included in the Act to regulate employment of 10 August 1934 ⁵ which provides for the issue of detailed rules by the President of the Republic.

Honduras. — The principle of a weekly rest for all employed persons is laid down in the Constitution of Honduras promulgated by a Decree of 28 March 1936 ⁶.

Hungary. — The regulation of the Sunday rest is based on the Sunday Rest Act of 9 April 1891 ⁷, in pursuance of which a large number of Orders have been issued at various times for various kinds of establishment. This system of regulation applies to the establishment rather than to the individual worker, however, for whom the weekly rest is ensured by the recent Conditions of Employment Act of 29 July 1937 ⁸ and the Order of 27 January 1938 laying down regulations for its application ⁹. An Order of 9 September 1938 applies to shops, offices and warehouses, and another Order of the same date to

¹ L.S., 1930, Gr. 3.

² L.S., 1932, Gr. 3.

³ L.S., 1935, Gr. 2.

⁴ L.S., 1926, Guat. 1.

⁵ L.S., 1934, Haiti 1.

⁶ *La Gaceta*, 4 and 6 April 1936, Nos. 9867 and 9868.

⁷ *Törvényok Gyűjteménye*, 1891, p. 81.

⁸ L.S., 1937, Hung. 4.

⁹ L.S., 1938, Hung. 1.

hotels, restaurants and similar establishments, while a third Order of 1 March 1939 regulates the hours of work of assistants in chemists' shops.

India. — There is no statutory provision for a weekly rest in commerce in India at present¹. In Government and semi-Government offices the matter is regulated by rules of the Central Government and supplementary rules of the Provincial Governments, and the large commercial concerns and offices tend to observe the same rules.

Iran. — There is no legislation governing the weekly rest in commercial establishments, which is ordinarily observed as a matter of custom on Friday.

Iraq. — There is no legislation governing the weekly rest in commercial establishments. Friday is observed as a day of rest in accordance with religious practice and custom.

Ireland. — The weekly rest is regulated by the Shops (Conditions of Employment) Act, 1938², which applies both to wholesale and retail trade and also to hotels, restaurants and similar establishments. The weekly rest is also affected indirectly by provisions contained in the Shops (Hours of Trading) Act of 25 February 1938, but Part IV of this Act, which applies to Sunday trading, has been temporarily suspended pending the issue of regulations thereunder.

Italy. — The Labour Charter of 21 April 1927³ lays down the principle of a weekly rest falling on Sunday and this principle is applied by the Weekly Rest Act of 17 March 1932⁴, replacing that of 7 July 1907, and by a Decree of 22 June 1935⁵ listing the occupations in which Sunday work is permissible and in which the weekly rest may be granted by rotation.

¹ In Bombay Province a Government Bill to regulate conditions in commercial establishments, including provision for four free days a month, was introduced at the beginning of 1939. Similar legislation is under consideration in other Provinces also.

² L.S., 1938, Ire. 1.

³ L.S., 1927, It. 3.

⁴ L.S., 1934, It. 3.

⁵ *Gazzetta Ufficiale*, 12 July 1935, No. 161.

A Royal Legislative Decree of 20 June 1935¹ to institute the "Fascist Saturday" provides that the work of salaried employees and State wage-earning employees shall end at 1 p.m. on Saturday. The necessary adjustments to apply this Act to commercial occupations were made by an agreement concluded in 1935 between the Fascist Confederation of Commercial Employers and the Fascist Confederation of Commercial Workers, which has the force of law.

Japan. — Provisions concerning the weekly rest exist only for shops under the Shops Act of 25 March 1938 and regulations issued thereunder on 30 and 31 August 1938. For large shops the relevant provisions are contained in the Department Store Act of 13 August 1937.

Latvia. — The Hours of Work Act of 24 March 1922², which covers commercial establishments and offices besides industrial undertakings, contains provisions concerning the weekly rest. Special regulations under this Act exist for employees of the postal, telegraph and telephone services³ and for civil servants in State or municipal administrative offices⁴.

Lithuania. — Provisions concerning the weekly rest in commerce are contained in the Act concerning public holidays and rest days of 14 May 1930 and regulations issued thereunder on 2 September 1930⁵.

Luxemburg. — The basis of regulation in Luxemburg is the Act respecting the weekly rest of employees and workers of 21 August 1913⁶, supplemented by the Order of 21 August 1914⁷. Provisions affecting the weekly rest are also contained in the Act of 7 June 1937⁸ to amend the Act concerning the conditions of employment of private salaried employees, and the Ministerial instructions issued thereunder on 21 October 1938⁹.

¹ L.S., 1935, II. 6.

² L.S., 1922, Lat. 1; amendment, 23 April 1937.

³ L.S., 1930, Lat. 2.

⁴ *Likumu un Valdības Noteikumu Krajumus*, Vol. 22, No. 262, and 1935, Vol. 21, No. 178.

⁵ L.S., 1930, Lith. 1 A and B; amendment L.S., 1931, Lith. 4.

⁶ L.S., 1932, Lux. 2 B.

⁷ B.B., 1916, Vol. XI, p. 16.

⁸ L.S., 1937, Lux. 1.

⁹ *Mémorial du Grand Duché de Luxembourg*, 25 October 1938, No. 75, p. 1216.

Mexico. — The principle of one day's rest in seven, to fall on Sunday, is laid down in the Mexican Federal Constitution of 1917 and in the Federal Labour Code of 18 August 1931¹ as amended on 18 February 1936². The Federal Executive and State authorities are made responsible for the issue of regulations to apply this principle to different occupations.

Netherlands. — An old Sunday Rest Act of 1 March 1815³ prohibits activities likely to disturb religious observances save in cases of necessity. The right of the individual worker to a weekly rest is laid down in the Labour Act of 1919 as subsequently amended⁴, which provides for the issue of detailed regulations in various branches of activity. These regulations were issued by Royal Orders, for shops on 11 March 1932 and 28 November 1934⁵; for hospitals on 3 September 1928, 25 November 1931 and 19 November 1932⁶; for cinema musicians on 4 July 1929⁷; for offices on 8 May 1937⁸; for cafés and hotels on 7 December 1937¹⁰; for florists' shops on 22 November 1929⁹; and for chemists' shops on 17 November 1932¹¹. Provisions indirectly affecting the weekly rest are also contained in the Shop Closing Act of 29 November 1930, as amended on 27 July 1934¹².

New Zealand. — A general prohibition of Sunday work or trading in or in view of any public place forms part of the criminal law under the Police Offences Act, 1927. For shop assistants the Shops and Offices Act, 1921-1922, as amended in 1927 and 1936¹³, provides for a weekly half-holiday for shop assistants and a weekly rest day for persons employed in hotels and restaurants, and also regulates shop-closing hours. Special regulations apply to private hospitals¹⁴ and employees of the

¹ L.S., 1931, Mex. 1.

² L.S., 1936, Mex. 1.

³ *Staatsblad*, 1815, No. 21.

⁴ For the codified text see L.S., 1930, Neth. 2.

⁵ L.S., 1932, Neth. 1; 1934, Neth. 3 B.

⁶ L.S., 1928, Neth. 4; 1931, Neth. 4 and 1932, Neth. 5.

⁷ L.S., 1929, Neth. 5.

⁸ L.S., 1937, Neth. 2.

⁹ L.S., 1937, Neth. 6.

¹⁰ L.S., 1929, Neth. 5.

¹¹ L.S., 1932, Neth. 4.

¹² L.S., 1930, Neth. 4 and 1934, Neth. 3.

¹³ L.S., 1936, N.Z. 8.

¹⁴ Private Hospitals (Hours of Work) Regulations, 1936, Serial No. 1938/71.

post and telegraph department are covered by the Post Office Regulations, 1918¹.

The Industrial Conciliation and Arbitration Act, 1927, as amended in 1936² directs the Arbitration Court to endeavour to fix the daily working hours so that no part of the working period falls on a Saturday, though this has often been considered impracticable in the case of commercial establishments. A considerable number of awards made or agreements approved under the Act contain provisions relating to Sunday work and the weekly rest. These provisions have force of law for the whole trade or occupation covered in the districts to which the award or agreement relates.

Nicaragua. — The political Constitution of Nicaragua, dated 22 March 1939³, lays down the principle of a compulsory weekly rest for every employed person.

Norway. — There is no general legislation concerning the weekly rest, which is, however, regulated for wage-earning employees in all undertakings by the Workers' Protection Act of 19 June 1936⁴. A special Act of 29 May 1925 regulating closing hours for barbers' shops⁵ affects the weekly rest. Public employees such as employees in the post office, telephone and telegraph service, and customs employees, are provided for by a resolution of the Storting of 15 June 1937⁶.

Paraguay. — The weekly rest in all kinds of employment is regulated by a Sunday Rest Act of 7 June 1917 and regulations issued thereunder by a Decree of 19 October 1925⁷.

Peru. — An Act of 26 December 1918 prohibits work on Sundays, holidays and election days in all occupations, with specified exceptions⁸.

¹ Post and Telegraph Regulations, 1918, New Zealand Gazette, 1925, p. 3460.

² L.S., 1936, N.Z. 1.

³ *La Gaceta, Diario Oficial*, 23 March 1939, p. 625.

⁴ L.S., 1936, Nor. 1.

⁵ L.S., 1935, Nor. 1.

⁶ *Norsk Lovtidende*, 1937, Part II, p. 244 a.

⁷ L.S., 1925, Para. 1.

⁸ *Legislación Social de America Latina*, 1929, Vol. II, pp. 376-7.

Poland. — The weekly rest is regulated by the general hours of work legislation. This consists of the Act of 18 December 1919 concerning hours of work in industry and commerce, as subsequently amended and consolidated in 1933¹. Shop closing legislation is also in force in the form of a Decree of 22 March 1928 concerning hours of business in commercial establishments as amended on 10 December 1935².

Portugal. — A weekly rest, with exceptions for specified establishments, is prescribed by a Decree of 8 March 1911 concerning the weekly rest³. The Labour Code of 23 September 1933⁴ also lays down the principle of a weekly rest and further relevant provisions are contained in the Legislative Decree of 24 August 1934 to regulate hours of work in commercial and industrial undertakings, as amended on 24 August 1936⁵.

Rumania. — The basis of regulation is the Act of 17 June 1925⁶ concerning rest on Sundays and holidays, amended on 2 August 1938⁷ and applied by regulations of 23 June 1925⁸. Relevant provisions are also contained in the Act of 3 August 1938⁹ to regulate conditions of employment in the offices of commercial and industrial undertakings, and the opening and closing hours of shops.

Salvador. — Regulations concerning the weekly rest are contained in a Legislative Decree of 31 May 1927 regarding the protection of commercial employees, completed by regulations of 4 November 1927¹⁰. Hours of work and rest periods in hairdressers' establishments are fixed by a Decree of 27 June 1930¹¹ which applies, however, only to the capital city.

Spain. — A Legislative Decree of 8 June 1925¹² concerning the weekly rest, replacing an earlier measure, prohibits Sunday

¹ L.S., 1933, Pol. 1.

² L.S., 1928, Pol. 7 and 1935, Pol. 2.

³ B.B., 1911, Vol. VI, p. 188.

⁴ L.S., 1933, Por. 5; L.S., 1934, Por. 5.

⁵ L.S., 1936, Por. 3.

⁶ L.S., 1925, Rum. 2 A.

⁷ *Monitorul Oficial*, No. 178, 4 August 1938.

⁸ *Monitorul Oficial*, No. 136, 24 June 1925.

⁹ *Monitorul Oficial*, No. 178, 4 August 1938.

¹⁰ L.S., 1927, Sal. 1.

¹¹ *Diario Oficial*, 30 June 1930, No. 121, p. 947.

¹² L.S., 1925, Sp. 3.

work for employees in large and small shops, commercial establishments, newspaper undertakings and banks. Regulations of 17 December 1926¹ issued under the Decree contain special chapters dealing with the hotel industry, shops of various kinds, itinerant vendors, newspaper undertakings and agencies, savings banks and pawnbrokers' shops.

Within the framework of the statutory provisions standard rules of employment drawn up by joint industrial boards established for different trades and areas regulate the weekly rest. The rules may not be less favourable than those laid down by law and serve in turn as compulsory minimum standards for all employment relations in the trade and within the area concerned. Where no joint boards exist, the weekly rest is sometimes regulated by collective agreement.

Sweden. — Sunday work is prohibited, except in case of necessity, by section 3 of Chapter VII of the Swedish Penal Code.

The principle of one day's rest in seven is laid down in the Workers' Protection Act of 29 June 1912, as amended up to 12 June 1931², which applies, however, only to wage-earning employees in all kinds of undertakings. For shop assistants supplementary provisions are contained in shop-closing legislation, consisting of the Act of 30 May 1919³ concerning the restriction of the hours for carrying on commercial and other businesses, as amended in particular on 22 April 1938⁴. In the bakery and confectionery trades the weekly rest is regulated by a special Act of 16 May 1930⁵ concerning hours of work and rest periods in those trades.

Switzerland. — The weekly rest is regulated primarily by Federal legislation, consisting of the Weekly Rest Act of 26 September 1931⁶ together with the Regulations issued thereunder on 11 June 1934⁷, a number of general circulars, and Orders laying down special provisions for the staff of cinemas, dairies and newspaper stalls. This legislation applies to commercial

¹ L.S., 1926, Sp. 7.

² L.S., 1931, Swe. 5.

³ L.S., 1923, Swe. 4.

⁴ *Svensk Förfatningssamling*, 22 April 1938, No. 119, p. 269.

⁵ L.S., 1930, Swe. 2.

⁶ L.S., 1931, Switz. 9.

⁷ L.S., 1934, Switz. 4.

establishments and offices and transport, in addition to industry and handicrafts, in so far as no other Federal labour legislation is applicable, but not to public hospitals and educational institutions and public administrative services.

Other Federal measures regulating the weekly rest are the Act of 6 March 1920¹ and Order of 12 August 1921² concerning hours of work on railways and in other transport and communications undertakings, which apply to post office, telegraph and telephone employees, and Staff Regulations of 24 October 1930³, which apply to other Federal civil servants.

Public hospitals and public educational institutions are covered by cantonal legislation or by special regulations for each establishment.

Turkey. — The weekly rest in commerce, as in industry, is regulated by the Weekly Rest Act, No. 394 of 2 January 1925⁴, as amended on 1 December 1926 and 13 November 1936. Supplementary provisions are contained in Act No. 2739 of 25 May 1935 concerning the national holiday and general rest days.

Union of South Africa. — The weekly rest in commerce is regulated at present on a provincial basis⁵. Old Sunday observance legislation forming part of the Criminal Code and prohibiting trading on Sunday is still in force in the Cape Province in the form of a Lord's Day Observance Ordinance of 1838 and in Natal in the form of a Law to Provide for the Better Observance of the Lord's Day, commonly called Sunday, 1878. The only other legislation affecting commercial employees consists at present of Provincial Shops Acts.

In the Cape of Good Hope an Ordinance to consolidate and amend the law relating to shop hours and the hours of employment of shop assistants of 26 September 1920⁶ provides for a weekly half-holiday and indirectly for a Sunday rest as well.

¹ L.S., 1920, Switz. 1.

² *Recueil des Lois Fédérales*, 1921, p. 642.

³ *La Vie Economique*, 12th Supplement, p. 51.

⁴ L.S., 1925, Turk. 1.

⁵ A Shops and Offices Bill, applicable throughout the Union, was introduced by the Union Government in April 1939; it contains weekly rest provisions which, when passed, will supersede the provincial legislation.

⁶ L.S., 1930, S.A. 7.

In the Orange Free State similar provisions are contained in the Shops Half-day Holiday Ordinance of 26 October 1925¹, as amended on 19 June 1934 and 13 September 1935². Natal has Shop Hours Ordinances of 19 June 1919 and 16 July 1936³, and the Transvaal a Shop Hours Ordinance of 4 May 1923⁴. Except in Natal, these measures also cover café and restaurant employees.

Wage-board determinations under the Wage Act, 1937, and industrial agreements under the Industrial Conciliation Act, 1937, also contain provisions concerning Sunday work for certain classes of commercial employees and for certain localities; in both cases the conditions stipulated are binding.

Uruguay. — The weekly rest in commerce is regulated by comprehensive weekly rest legislation consisting of Act No. 7318 of 10 December 1920⁵, as amended on 22 October 1931⁶, and supplemented by regulations of 26 June 1935⁷. The weekly rest in hairdressers' shops and chemists' shops is regulated by special Acts of 7 November 1929⁸ and 2 July 1931⁹.

U.S.S.R. — The regulation of the weekly rest is based on the Labour Code of the R.S.F.S.R. and on the Labour Codes of the other federated Republics, which are practically identical with it. Orders concerning hours of work and rest periods in undertakings working an uninterrupted week, which provides for a rest by rotation on every sixth day, were issued on 24 September 1929¹⁰ and on various subsequent occasions. Special orders have also been issued for small retail shops¹¹, for medical and veterinary establishments¹², for entertainment industries and cinemas¹³ and for postal and telegraph services¹⁴. Works' rules also play some part in regulating the weekly rest.

¹ L.S., 1925, S.A. 3.

² Ordinances of the Orange Free State, 1934, p. 50, and 1935, p. 41.

³ Ordinances of the Province of Natal, 1919, p. 58, and 1936, p. 38.

⁴ Ordinances of the Province of Transvaal, 1923, p. 6.

⁵ L.S., 1920, Ur. 2.

⁶ L.S., 1931, Ur. 1.

⁷ *Diario Oficial*, 11 July 1935, p. 73a.

⁸ *Diario Oficial*, 13 November 1929, p. 388a.

⁹ *Diario Oficial*, 8 July 1931, p. 60a.

¹⁰ L.S., 1929, Rus. 3.

¹¹ *Izvestia Narodnogo Kommissariata Truda SSSR.*, 1929.

¹² L.S., 1927, Rus. 3.

¹³ L.S., 1930, Rus. 1.

¹⁴ *Izvestia Narodnogo Kommissariata Truda SSSR.*, 1931, No. 11.

United States of America. — The question of the weekly rest is dealt with in the United States by State legislation. There is no Federal legislation on the subject except for civilian employees in Government departments, who are covered by laws regarding hours of labour in Executive Departments¹ and regarding the Saturday half-holiday for Government employees², and for certain classes of workers under Federal jurisdiction, such as post office employees³.

All the States and territories, with the exception of the District of Columbia and the Philippine Islands, have laws prohibiting various kinds of work on Sunday⁴, and the constitutionality of these laws has generally been upheld by the Supreme Court on the ground that they are social and economic in their effect and a valid expression of public policy with regard to the well-being and general welfare of persons within the State. Certain States have both Sunday labour prohibition laws and more general laws providing for one day's rest in seven, but in these cases it is frequently found that only the one day's rest in seven law is enforced. A few States also have hours of work laws which directly or indirectly regulate the weekly rest for certain categories of establishments, while local Sunday closing laws or shop-closing regulations provide in some cases for a weekly half-holiday.

Collective agreements also play their part in regulating the question of Sunday work for a large number of commercial employees. As a rule they contain provisions restricting the number of working days to five or six a week and prescribing increased rates for Sunday work. Where no laws or agreements are operative it is customary in many commercial establishments and offices to grant a weekly whole or half-holiday in addition to the ordinary Sunday rest.

Venezuela. — The Labour Code of 16 July 1936⁵ provides that Sundays and holidays shall be days of rest for all workers, and gives power to the Federal Executive to make the necessary

¹ 5 U.S. Code, 1929.

² 5 U.S. Code, 1926, A.

³ Public Law No. 275 of 14 August 1935, amended by Public Law No. 575 of 7 May 1936.

⁴ For a bibliography of these laws, see *Monthly Labor Review*, Vol. 44, No. 6, June 1937.

⁵ L.S., 1936, Ven. 2.

exceptions. This was done by a Decree of 30 November 1938¹ issuing general regulations under the Code, which also makes provision for compensatory rest periods.

Yugoslavia. — The basis of regulations is the Workers' Protection Act of 28 February 1922² which gives power to the competent minister to fix hours of work by order in commercial establishments. Detailed regulations for commercial establishments exist only for shops under the Decrees of 3 May and 20 July 1928³ and 16 April 1929⁴ concerning opening and closing hours and hours of work in commercial and handicrafts establishments.

¹ *Gaceta Oficial*, LXVII, 5 December 1938.

² *L.S.*, 1922, SCS. 1.

³ *L.S.*, 1928, SCS. 1.

⁴ *L.S.*, 1929, SCS. 1.

CHAPTER II

SCOPE

The object of this chapter is to show: (1) the methods which the regulations mentioned in the preceding chapter use to define their scope; (2) the delimitation of that scope as regards the establishments, activities and persons included or excluded.

A. — *METHODS OF DETERMINATION*

The various regulations directly or indirectly establishing a periodical rest for employed persons have recourse to three main methods for determining their scope:

1. The establishments to which the regulations apply are explicitly defined;
2. The establishments included are implicitly defined in that the regulations specify the activities which are prohibited on the periodical rest day;
3. The establishments included are implicitly defined in that the regulations specify the persons who are covered.

Moreover, the nature of the regulations is not without effect on the choice of method. Regulations with a social object, which prescribe a periodical rest for employed persons define their scope mainly with reference either to the establishments included or to the persons covered. Regulations with a religious object, and particularly those relating to Sunday observance, more often have recourse to the method of prohibiting certain activities on the rest day, the establishment remaining a subsidiary criterion and being mentioned only with reference to exceptions. Regulations on shop closing rely mainly on the criterion of the establishment for purposes of definition, the activities engaged in being introduced as a subsidiary criterion only.

Apart from the three main methods mentioned above, the scope of regulations may also be defined, and made more precise indirectly, i.e. by enumeration of a number of exceptions. Sometimes it is only the mention of these exceptions that makes it clear that certain classes of establishments are covered.

§ 1. — Regulations Applying Explicitly to Certain Classes of Establishments

With a view to defining their scope these regulations have recourse either to a general formula (this is much the more frequent case) or to the enumeration of certain classes of establishments, or again to a general formula supplemented by an enumeration, to which definitions of certain fundamental terms — “shop”, “hotel”, “restaurant”, etc. — are added.

USE OF A GENERAL FORMULA

The formula used varies somewhat in character. The regulations may apply for instance to:

“industrial and commercial establishments” (*Belgium*, Weekly Rest Act of 1905);

“all establishments occupying employed persons” (*Norway*, Workers’ Protection Act);

“industrial and commercial establishments of whatever sort, public or private, lay or religious, even if intended for vocational education or charitable purposes” (*France*, Labour Code);

“factories, workshops, commercial establishments and all other establishments or workplaces” (*Argentina*, Act and Decree relating to the weekly rest);

“offices, shops, warehouses, workshops, undertakings, public transport services and other premises where commercial operations are carried on” (*Portugal*, Legislative Decree of 1936 concerning hours of work in industrial and commercial establishments).

A formula on the lines of those reproduced above is to be found in the general weekly rest regulations of *Argentina, Belgium, Brazil, Bulgaria, Chile, Colombia, Ecuador, Finland, France, Guatemala, Haiti, Latvia, Luxemburg, Norway, Paraguay, Peru, Poland, Portugal, Rumania, Spain, Sweden, Turkey, United States* (several States of the Union), *Uruguay, U.S.S.R., Venezuela and Yugoslavia*.

A general formula is also to be found in a number of regulations with restricted scope.

USE OF AN ENUMERATION

There are few regulations which have recourse to this method — those of *Finland* (Eight-Hour Day Act of 1917), the *Netherlands* (Labour Act of 1919) and *Switzerland* (Federal Weekly Rest Act). The method adopted in *Switzerland* for defining the scope of the Act may be given as an instance. The Act applies to:

“Public and private establishments in

(a) commerce;

(b) handicrafts and industry, in so far as the provisions of the Federal legislation relating to employment in factories are not applicable;

(c) transport, in so far as provisions of the Federal legislation regarding the hours of employment in the operation of railways and other transport undertakings and to the employment of Federal officials are not applicable;

(d) allied branches of industry.”

This list is supplemented by a second, contained in the regulations to administer the Act:

“The branches of industry and classes of undertakings covered by the first paragraph of section 1 of the Weekly Rest Act shall include the following, *inter alia*:

(a) undertakings of all kinds for the sale of goods, including kiosks and stalls in the open air;

(b) banks and stock exchanges, insurance companies, offices for the administration of property, real estate agencies and the administrative offices of newspapers;

(c) other establishments administered on commercial lines, the operation of which is based mainly on office work;

(d) offices and other workplaces in the liberal, artistic and technical professions, and economic groups;

(h) entertainment undertakings of all kinds, cinemas, casinos, dance-halls, establishments for the exploitation of wireless telephony and wireless telegraphy, sports establishments and watchmen's services;

(i) pharmacies, dentists' laboratories, beauty parlours, bathing establishments, hairdressers' establishments, and undertakers' establishments;

(k) private establishments engaging by way of trade in activities connected with art, science, applied science, education and teaching, social welfare and the care of the sick (including the care of children, infants, and women in childbirth but exclusive of home nursing).”

The system of enumeration may be met with also in regulations of restricted scope. In *Australia*, for instance, the Shops or Shop Closing Acts of South Australia, Tasmania and Victoria

enumerate all the classes of establishments which should be considered as shops for the purposes of the Act.

It should also be pointed out that sometimes the general formula consists more or less of an enumeration, so that the distinction between the two methods may be somewhat arbitrary.

USE OF A FORMULA WITH SUPPLEMENTARY DEFINITIONS

A number of regulations, particularly in English-speaking countries, indicate their scope in a summary manner and render it more exact by defining in great detail the principal terms used. Such regulations are to be found in *Estonia* (Act of 1938 concerning conditions of employment in commercial establishments and offices); *Great Britain* (Shop Acts, 1912-1936); *Ireland* (Shops (Conditions of Employment) Act, 1938); *Japan* (Department Store Act of 1937); *New Zealand* (Shops and Offices Act, 1921-1936); the *Union of South Africa* (Orange Free State, Shop Hours and Half-Holiday Ordinance, No. 6 of 1925; and Transvaal, Shop Hours Ordinance of 1923). Reference may be made as an example to the provisions of the *Irish* Shops (Conditions of Employment) Act of 1938 provides that:

"The word shop includes —

(a) any premises in which retail trade or business is carried on, excluding so much (if any) of such premises as is not used for the purpose of such retail trade or business;

(b) any premises in which goods are received direct from customers for the purpose of having the same dyed, cleaned, repaired, altered or laundered, excluding so much (if any) of such premises as is not used for such reception of such goods;

(c) any wholesale shop;

(d) any warehouse occupied —

(i) for the purposes of a retail trade or business, by the person carrying on such retail trade or business, or

(ii) by a wholesale dealer or merchant for the purposes of the business carried on by him in a wholesale shop;

(e) a hotel; ... " (the word "hotel" is then defined).

USE OF THE ACTIVITIES ENGAGED IN AS A SUPPLEMENTARY FACTOR IN THE DEFINITION

The regulations which define their scope by referring explicitly to the classes of establishment covered usually supplement this definition by referring to the activities engaged in, these being the activities in which the staff of the establish-

ments in question may not engage on the weekly rest day. Particulars of this kind are to be found, for example, in the weekly rest regulations of *Argentina, Colombia, Ecuador, Spain* and *Venezuela*, in the Sunday observance regulations of *Peru*, and in the shop closing regulations of *Denmark* and *Great Britain*.

The widest definition is that of *Venezuela*, where the Labour Act provides that "no work whatever" may be done on rest days.

In *Colombia*, under the Weekly Rest Act, the prohibition relates to the right "to require another person to exercise his occupational skill or productive power". In *Ecuador* no person may "work on his own account, in public" in one of the establishments covered.

The scope of the prohibition may be defined in still greater detail. For instance, the *Danish Shop Closing Act* prohibits "buying and selling" in streets, markets, public squares, or in various premises enumerated. In *Great Britain* the Home Office, in a memorandum issued in 1913, defined at great length the scope of the expression "retail trade": some passages of this definition are reproduced below under B, I, § 5.

In *Argentina* (Sunday Rest Act of 1905), *Paraguay* (Sunday Rest Act of 1917), *Peru* (Act of 1918 to prohibit work on Sundays and public holidays) and *Spain* (Legislative Decree of 1925 to prohibit work on Sundays), either "material work" or "manual work" is prohibited. The meaning of these expressions is, moreover, defined in a fairly comprehensive manner. In *Argentina*, for instance, the Acts prohibits "manual work on account of another and also manual work done publicly on the worker's own account", and the Decree to administer the Act adds that "manual work" must be taken to mean "any employment in which the exercise of the physical powers predominates or in which, if the intellectual powers predominate, the duties performed are of a subordinate character".

In *Paraguay* the Decree of 1925 to issue regulations for the administration of the Sunday Rest Act of 1917 states that "manual work shall be deemed to mean any employment in which the exercise of the physical powers predominates".

In *Peru* the Act of 1918 prohibiting work on Sundays and public holidays uses the expression "material work".

§ 2. — Regulations the Scope of which is Defined in Terms of the Activities Engaged in

Regulations concerning Sunday observance as a rule define their scope mainly by specifying the activities which are prohibited on the day consecrated by religious custom. Legislation of this sort is to be found in *Australia* (Tasmania), *Canada* (Dominion and Provinces of Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec), *Great Britain*, *Greece*, *Hungary*, *Italy*, the *Union of South Africa* (Cape of Good Hope and Natal) and the *United States of America* (a large number of States). A similar method of determination is also used in *Australia* by the Queensland Industrial Arbitration Act, in *Italy* by the Weekly Rest Act, and in *Lithuania* by the Public Holidays and Rest Days Act of 1930.

The formula used in the Acts of religious origin is on the lines of that contained in the *English Sunday Observance Act* of 1677, which prohibits "the exercise of any worldly labour or work", or "their ordinary callings" by any "tradesman, artificer, workman, labourer or other person".

Many of the Sunday observance regulations in the English-speaking countries go into greater detail. For example, in the *Union of South Africa*, under the Cape of Good Hope Ordinance of 1938

"... it shall not be lawful for any person to sell or offer for sale any goods, merchandise, cattle, or other livestock, or to trade or deal or keep open any shop, store, or other place for the purpose of trade or dealing; or to cut or carry any fuel or to engage in field labour, except for the preservation of the fruits of the earth in cases of urgent necessity, or (except upon some lawful occasion) to discharge any gun or other firearm on the Lord's Day."

In *Greece* the Sunday Rest Act of 1930 prohibits "all work in industry, handicrafts and commerce". In *Hungary* the Act of 1891 provides that "all industrial work shall be suspended on Sundays", the word "industrial" applying — according to an Act of 1884 — to all occupational work, including commerce (but excluding agriculture). In *Italy* the Sunday and Weekly Rest Act of 1934 prohibits "work on account of another". In *Lithuania*, according to the Public Holidays and Rest Days Act of 1930, "commerce" is prohibited between certain hours.

§ 3. — Regulations the Scope of which is Defined in Terms of the Persons Covered

Some weekly rest regulations of general scope rely exclusively on the criterion of the persons employed. The principle is that of granting a day's rest in the week or of prohibiting work on Sundays for employed persons in general.

These regulations of a general character include the *Dominican* Hours of Work Act of 1935, which relates to "employed persons of either sex"; the *Luxemburg* Act concerning the employment of "private employees", an exact definition of which term is given; the *Mexican* Labour Code, which gives every worker the right to a weekly rest, the term "worker" being defined as "any person who performs for another a material or intellectual service, or both, under a contract of employment"; and, in the *United States*, the Californian State Law (No. 4718), which provides that persons employed in any work are entitled to one day's rest in seven.

It was stated in section (2) above that the *Italian* Sunday and Weekly Rest Act determines its scope by specifying the activities which are prohibited; but the persons employed are also an important criterion, for the Act says that "persons working for another shall be entitled", etc.

Various regulations of limited scope also base their definition on the persons covered. Among these are, in *Canada* the Sunday Laws of Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec, which apply to specified groups of persons engaged in retail trade — merchants, tradesmen, barbers, workmen, labourers, etc., and in *Belgium* the Act of 26 May 1914 concerning notaries', solicitors' and bailiffs' clerks. Collective agreements, arbitration awards and wages boards' decisions in various countries contain a similar provision.

These regulations are considered under C below (scope as regards persons).

B. — SCOPE AS REGARDS ESTABLISHMENTS

I. — CLASSES OF ESTABLISHMENT AND ACTIVITY COVERED

The regulations vary widely in scope, some applying to almost all commercial and administrative activity, while others

relate only to a very small number of activities or even to a single branch. Further, it is sometimes difficult to decide with certainty what the scope of a measure is, either because it does not explicitly mention the classes of establishments to which it applies (as explained under A, § 1 above) or because the defining formula leaves room for some ambiguity. Thus it is that general expressions like "commerce", "commercial and industrial establishments", "premises where operations of a commercial character are carried on", etc., may be interpreted in several different ways; for instance, in some countries the expression "commercial establishment" includes hospitals, whereas in others it does not.

In this section the regulations are classified according to the wideness of their scope — first come regulations of an absolutely general character, then those of a more restricted character, but nevertheless applying to several different classes of activity, and lastly regulations of quite limited scope and applying to one class of activity only. All classes of activities which correspond in the aggregate to the widest definition of the expression "commerce and offices" are taken into account, namely: wholesale, semi-wholesale and retail trade of all sorts; offices, hotels, restaurants, public houses and similar establishments; entertainment undertakings, including sports undertakings; hospitals, including homes for the aged and infirm, hostels, maternity homes, clinics and all similar establishments; educational establishments, including museums, libraries, academies, etc.; public services (central Government, provincial, local, and other).

§ 1. — Regulations of General Scope

These are regulations covering all the classes of activity mentioned above. It should nevertheless be noted that these regulations may provide for exemptions of various sorts — exemptions based on the size of the establishment, exemptions on geographical considerations, exemptions of certain classes of work, etc. Secondly, a number of general regulations explicitly apply to both public and private establishments, whereas others do not specify their application as regards these two types, and others again apply to private establishments only.

REGULATIONS EXTENDING TO ALL ESTABLISHMENTS, INCLUDING THOSE OF PUBLIC SERVICES

The legislation on conditions of employment in *Ecuador*, *Latvia*, *Poland*, *Sweden* and the *U.S.S.R.*, the political Constitution of *Nicaragua*, and the *Peruvian* Act concerning the prohibition of work on Sundays and public holidays specifically provide for the inclusion of public and private establishments of all classes, including public services. These regulations appear to provide for no kind of absolute exemption, but lay down special systems for various classes of activity.

REGULATIONS APPLYING EXPLICITLY TO BOTH PUBLIC AND PRIVATE ESTABLISHMENTS

Apart from the regulations just mentioned, a number of others state that they apply to "public and private" establishments, though it is not absolutely clear whether this expression includes public services. Expressions of this sort are used in the legislation on conditions of employment in *Chile*, *Colombia*, *France*, *Guatemala*, *Venezuela* and *Yugoslavia* (Workers' Protection Act).

The expression "public and private establishments" is, moreover, open to various interpretations. In *France*, for instance, the defining formula is "salaried employees and workers occupied in industrial or commercial establishments of whatever sort (and their dependencies), public or private, lay or religious, even if intended for vocational education or charitable purposes"; but it has been the constant practice of the courts to regard central, regional and local public services as outside the regulations, as being not of a commercial or industrial character. On the other hand, private undertakings with a similar scope are subject to the law because their private character implies a "commercial" object. The complementary idea of commercial activity is moreover fairly comprehensive since hospitals administered by the authorities are subject to the law on the same footing as private establishments.

In *Chile* the scope of the legislation is still wider, since under section 5 of the Labour Code "the State, the municipal authorities and undertakings or services carried on by means of State or municipal funds shall be deemed to be masters or employers of the workers and salaried employees whom they occupy".

The fact that regulations apply to public establishments nevertheless leaves unsolved, in some cases at least, the problem of their application to persons with the status of officials when national law gives such persons a special legal position.

REGULATIONS MAKING NO DISTINCTION BETWEEN PUBLIC AND PRIVATE ESTABLISHMENTS

Among regulations of this sort mention may be made of the Sunday Rest Acts of *Argentina*, the *Canadian* provinces of Manitoba and Saskatchewan, *Paraguay* and *Rumania*, the legislation on conditions of employment in *Brazil* (Decree No. 22033), the *Dominican Republic* and *Haiti*, and the *English* Sunday Observance Act of 1677.

Examination of the text of these regulations suggests that those of *Argentina*, *Brazil*, the *Dominican Republic* and *England* apply in fact to public and private establishments and that public services may be partly covered, but that those of *Rumania* and *Paraguay* apply to private establishments only.

REGULATIONS APPLYING TO PRIVATE ESTABLISHMENTS ONLY

The general regulations of this sort are as follows: *Italy* (Sunday and Weekly Rest Act); *Luxemburg* (Weekly Rest Act and Act concerning the hire of services of private employees); *Mexico* (Labour Code); and *Switzerland* (Federal Weekly Rest Act).

§ 2. — Regulations of Limited Scope but Covering several Classes of Establishment or Activity

There are many regulations of this sort, and their scope varies so widely that it is practically impossible to classify them strictly by this criterion. The task is all the more difficult because, as pointed out above, the interpretation of the defining formula used in the regulations is sometimes doubtful; though it is usually clear which classes of establishments are excluded from the scope of these regulations, the same cannot always be said of the classes not covered.

These regulations, though of limited scope, may apply not only to private establishments but also, like the regulations of a general character, to public establishments. Whether or not each set of regulations applies to public services is indicated below.

REGULATIONS APPLYING TO COMMERCE, OFFICES AND OTHER CLASSES OF ACTIVITY

The regulations of this sort are as follows:

Australia, Tasmania (Sunday Observance Act, 1910). This applies to wholesale and retail trade (in part), offices, and entertainments. Certain commercial activities and work in restaurants and public services are excluded. Hotels and hospitals are not covered.

Belgium (Weekly Rest Act of 1905). This applies to industrial and commercial undertakings, only undertakings in fairs, etc., being excluded. Undertakings operated by the State, provinces and communes are covered. The offices of undertakings which are neither industrial nor commercial, in particular educational establishments and the offices of solicitors, notaries and bailiffs, are not covered.

Bulgaria (Decree of 1936 concerning hours of work in commercial establishments). This applies to "commercial establishments", i.e. "establishments open to visitors, in which sales operations are carried on and services are rendered to the public". Hospitals are covered, whereas educational establishments and public services, *inter alia*, are not.

Canada (Lord's Day Act). This covers wholesale and retail trade, offices, and public services, all of these in part only. Hospitals are not covered, and it cannot be stated with certainty whether other branches of activity are covered or not. The Sunday Laws of the Provinces of Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec have a similar scope.

Finland (Eight-Hour Day Act of 1917). This applies to commerce, offices, hotels and restaurants. The administrative regulations issued under it exclude hospitals, the customs service and postal, telegraph and telephone services. Entertainments and educational establishments are not covered.

Greece (Sunday Rest Decree of 1930). This applies to wholesale and retail trade (in part), offices, hotels and restaurants (but the system applied to this class of activity is defined by special regulations), and entertainments, etc. Public services are excluded. It is not clear whether or not hospital and educational establishments are covered by the general expression "work in industry, commerce and handicrafts".

Netherlands (Labour Act of 1919). This applies to wholesale and retail trade, offices, hotels and restaurants, and in part to hospitals, educational establishments and public services. Entertainments are not covered.

New Zealand (Shops and Offices Act of 1931-1936). This applies to hotels and restaurants and in part to commerce and offices. The other classes of activity are not covered.

Norway (Workers' Protection Act of 1936). This relates to commerce, offices, and hospitals. Hotels and restaurants, entertainments, educational establishments and public services are excluded.

Spain (Legislative Decree of 1925 prohibiting manual work on Sunday). This applies to wholesale and retail trade, offices, enter-

tainments and the offices of services under the Government, provinces and communes. All educational establishments are excluded and hospitals are not covered. It is impossible to say whether hotels and restaurants are covered or not.

Turkey (Weekly Rest Act of 1925). This relates to wholesale and retail trade (in part), offices, hotels and restaurants. Entertainments, hospitals and (in part) educational establishments are excluded. Public services are not covered.

United States of America. The Sunday Labour Laws of the different States prohibit in a general way the exercise of an occupation on Sunday and it cannot be said with certainty whether or not hotels and educational establishments are covered. The weekly rest laws of the different States vary in scope. Those of Connecticut, Michigan, Minnesota, New Hampshire, Wisconsin and Puerto Rico apply to commercial establishments in general. The Illinois law covers commercial establishments, banks, hotels and restaurants, entertainments, hospitals and postal establishments. The Massachusetts law includes hotels and restaurants among commercial establishments. The New York law covers commercial establishments, hotels and restaurants, and entertainments. The Pennsylvania law covers commercial establishments and entertainments. It is impossible to give a systematic review of the scope of the different laws in force in the United States owing to their great number and complexity.

Uruguay (Weekly Rest Act of 1920-1931). This applies to wholesale and retail trade, offices, hotels and restaurants, entertainments, hospitals and public services. Only certain educational establishments are excluded.

REGULATIONS APPLYING TO COMMERCE AND OFFICES ONLY

Several regulations of this sort are intended to secure Sunday observance and therefore prohibit selling and business on that day; others govern conditions of employment in commerce and offices, these expressions having a restricted sense. They are found in the following countries:

Estonia (Act of 1938 concerning conditions of employment in commerce and offices); *Finland* (Act of 1934 concerning conditions of employment in commerce and offices); *Germany* (Industrial Code); *Hungary* (Act No. XIII of 1891 concerning the Sunday rest); *Portugal* (Legislative Decree of 1934-1936 to govern hours of work in industrial and commercial establishments); *Union of South Africa*, Cape of Good Hope (Lord's Day Observance Ordinance, 1838) and Natal (Law of 1878 concerning the observance of the Lord's Day).

REGULATIONS APPLYING TO COMMERCE AND RESTAURANTS

A number of regulations on shop closing, conditions of employment in shops, or Sunday observance apply simultaneously to commerce and to restaurants and public-houses, the "shop" or "commercial establishment" being defined in a

sufficiently comprehensive manner to cover public-houses or establishments selling refreshments. Regulations of this sort may be found in the following countries:

Australia, South Australia, Tasmania and Victoria (Shops or Early Closing Acts); *Ireland* (Shops (Conditions of Employment) Act); *New Zealand* (Police Offences Act, 1927).

§ 3. — Regulations Applying to a Single Class of Establishment or Activity

REGULATIONS APPLYING TO COMMERCE ONLY

The regulations of this sort are mainly shop-closing Acts, but some of them relate to the weekly rest. As a rule they apply to wholesale and retail "commerce" in general, including hairdressers' establishments. Such regulations exist¹ in *Canada* (Manitoba), *Cuba*, *Denmark*, *Japan*, *Lithuania* and the *Union of South Africa* (Orange Free State and Transvaal).

Some regulations apply to retail trade only, or even to certain branches of this. In *Great Britain*, for instance, the various Shops Acts of 1912-1936 apply only to retail trade² but this includes hairdressing. In *Japan* the Act of 1937 covers department stores only. The *Brazilian* Decree, No. 20084 of 1933, and the *Estonian* Act of 1936 apply particularly to pharmacies. In *Cuba* the Legislative Decree of 1928 applies to bakeries.

REGULATIONS APPLYING TO OFFICES ONLY

There are regulations of this sort in the following countries:

Bolivia (Decree of 1925 concerning salaried employees in commerce and industry). This applies to "persons employed in offices in any branch of commerce (and also in industry, mines, and State or private railway undertakings)".

¹ The international Convention for the unification of labour legislation, concluded in 1923 between the Governments of *Costa Rica*, *Guatemala*, *Honduras*, *Nicaragua* and *Salvador*, is also restricted to commerce. It provides *inter alia* for the prohibition on Sundays of selling in shops (except for the sale of medicaments and foodstuffs), work in shops other than hairdressers' saloons (except work in bakeries and other work relating to food) and the sale or distribution of alcoholic beverages.

² Though "shop" is defined as including hotels and public-houses, the provisions concerning compensatory rest for ordinary Sunday work do not apply to the latter establishments.

Belgium (Act of 26 May 1914). This specially covers solicitors', notaries' and bailiffs' clerks; such special regulations were rendered necessary by the scope of the Weekly Rest Act of 1905, which applies only to undertakings of an industrial or commercial character.

Brazil (Decree No. 452 of 1938 concerning office employees of all sorts, Decree No. 23313 of 1933 concerning pawnshops, Decree No. 23322 of 1933 concerning banks, and Legislative Decree No. 910 of 1938 concerning newspaper undertakings).

Cuba (Legislative Decree of 2 July 1935). This applies specially to newspaper and broadcasting undertakings.

Further, in *New Zealand* the conditions of work of journalists are governed by awards.

REGULATIONS APPLYING TO HOTELS, RESTAURANTS AND PUBLIC-HOUSES ONLY

There are regulations of this sort in *Brazil* (Decree No. 24696 of 1934); *Canada* (weekly rest laws of Ontario and Quebec); *Germany* (Order of 12 December 1938); *Greece* (Decree of 1924 concerning the weekly rest of employees of hotels, restaurants, etc.); *New Zealand* (arbitration awards).

REGULATIONS APPLYING TO ENTERTAINMENT ESTABLISHMENTS ONLY

There are regulations of this sort in *Brazil* (Decree No. 23152 of 1933); *Hungary* (various collective agreements for the staffs of entertainment establishments, excepting performers); *New Zealand* (arbitration awards for certain groups of theatre and cinema employees); *Union of South Africa* (Cape of Good Hope, Sunday Observance Act of 1895).

REGULATIONS APPLYING TO HOSPITALS ONLY

There are regulations of this sort in *Germany* (Order of 1924 concerning hours of work in hospitals, etc.) and *New Zealand* (Private Hospitals (Hours of Work) Regulations, 1938, and agreement covering porters, attendants and male nurses of the Wellington Hospital Board).

REGULATIONS APPLYING TO PUBLIC SERVICES ONLY

In most countries, even those where the general regulations concerning the weekly rest apply also to public services, there are special regulations governing the weekly rest in these services. For example, there are in every country highly detailed

regulations for postal, telegraph and telephone services. It would be superfluous to enumerate the measures in question, since such a list would give no useful information for the present purpose.

§ 4. — Regulations of Varying Scope

Some regulations of a general character confine themselves to providing for the possibility of governing conditions of employment, and more particularly the weekly rest, inside the limits laid down, but refer the actual application to supplementary measures applying more particularly to special classes of activity.

Thus, in *Brazil*, the Decree concerning hours of work in commerce provides that, in the following establishments, conditions of employment shall be governed by special regulations issued by the Ministry of Labour, Industry and Commerce: theatres, cinemas and other places of amusement; pharmacies, hospitals, nursing homes, medical, surgical and dental dispensaries; hairdressers' establishments, bathing and massage establishments, etc.; banks, including pawnshops, offices of building societies, and independent offices engaged exclusively in accountancy work; offices of insurance companies and transport companies and undertakings of any kind; editorial offices of newspapers; municipal markets and offices of undertakings operating a Federal or municipal public utility service; educational and relief institutions; hotels and boarding-houses (except kitchen and dining-room services). The regulations already issued for some of these classes of activity are mentioned above under the appropriate headings.

Again, in *Australia* the Queensland Industrial Arbitration Act of 1933 and the Victoria Factories and Shops Act provide for the possibility of regulating conditions of work in specified branches of industry and commerce or for specified occupations by means of arbitration awards (in Queensland) or wages board determinations (in Victoria). Such awards have been issued for a large number of trades.

§ 5. — Supplementary Definitions regarding Certain Classes of Establishment or Activity

Several regulations, whether applying to several classes of activity or to one only, give detailed definitions of certain

terms of fundamental importance to the determination of their scope.

COMMERCE

The expression "commerce" may be interpreted in a more or in a less comprehensive manner. It may, for instance, include commerce in shops, itinerant trade, commerce in fairs and markets, and sale by auction.

The expression "commercial establishments" is defined in the *Estonian* regulations, which state these to be "shops or warehouses where goods are bought or sold wholesale or retail". On the other hand, "offices" are described as "the offices of commercial and industrial establishments, banking and all other offices where workers are employed mainly at intellectual work".

The expression "shop" is defined in the regulations of *Great Britain, Ireland, Japan, New Zealand* and the *Union of South Africa* (Orange Free State and Transvaal). The definition given in the *Irish Act* is reproduced in A, § 1 above. Like those given in the similar regulations of English-speaking countries, it is fairly comprehensive, and includes not only shops in the narrow sense but also restaurants and public-houses.

In *Great Britain* "shop" means any premises where "retail trade or business" is carried on, this including hairdressing, the sale of refreshments and intoxicating liquors, and libraries carried on for purposes of gain; but the provisions of the Shops (Sunday Trading Restrictions) Act of 1936 do not apply to hotel employees, at least as regards compensatory rest, so that this occupation is in fact excluded from the scope of the Act.

In *Japan* the Department Store Act of 1937 defines department stores as undertakings (1) covering sales space exceeding 3,000 square metres in the six largest cities or exceeding 1,500 square metres in other areas (sales space being equal to 95 per cent. of floor space) and (2) engaged in the retail sale of various kinds of merchandise belonging to more than two of the following four groups: (i) clothing and accessories; (ii) food and drink; (iii) housing articles; and (iv) jewellery, decorations, toys, toilet goods, books, etc.

In *Australia* the legislation applying to shops in the different States also defines "shop" and delimits the class of activity in

question by an enumeration. The Factories and Shops Act of Victoria, for instance, defines a shop as:

"Any building or place or portion of a building or place, or any stall, tent, vehicle or pack in which goods are exposed or offered for sale by retail and includes any rooms of hairdressers or barbers and boot repairers' shops and the rooms of dyeing and clothes cleaners, commonly known as dyers' shops and clothes-cleaners' shops."

It is further stated that the term "shop" includes:

"(a) any coffee palace, confectionery and pastry shop, bread shop, eating house, fish or oyster shop, flower shop, fruit and vegetable shop, bookseller's and newsagent's shop, cooked meat (other than tinned meat) shop, hotel, premises for which an Australian wine-licence or a billiard-table licence is in force, premises which are occupied as a club; or

(b) the trade or business of caterer."

Itinerant trade, including *hawking*, is sometimes specifically mentioned by the regulations, among others those on Sunday observance. Provisions of this sort may be found in the regulations of *Australia* (Shops or Early Closing Acts of South Australia, Tasmania and Victoria), *Germany* (Industrial Code), *Greece* (Decree on the Sunday Rest), *Ireland* (Shops (Conditions of Employment) Act) and the *Union of South Africa* (Orange Free State and Transvaal). Some of these regulations define very exactly what is to be understood by "itinerant trade" or "hawking".

The inclusion of markets, etc., is stipulated in some regulations, for example, in *Great Britain* (Shops Act), as stated in a Home Office memorandum of 1913, where the scope of the expression "retail trade or business" is explained, and in the *Union of South Africa* (Natal, Sunday Observance Act of 1878).

Sale by auction is explicitly covered by some regulations, while others implicitly include it by omitting it from the schedule of exemptions; in other cases, again, it is covered as a result of interpretation by the courts of law. In *Germany* legal rulings and those given by various Ministerial Orders are to the effect that the expressions "commercial activity" and "commercial undertakings" used in the Industrial Code apply, *inter alia*, to sale by auction. In *Great Britain* the definition of "retail trade" reproduced above, and given in the Sunday Trading Restrictions Act of 1936, includes sale by auction. In the *Union of South Africa* (Orange Free State and Transvaal) the regulations state that they do not apply to the sale by auc-

tion at a private residence of the private effects of the owner or tenant; this indicates that other sales by auction are covered by the regulations in question.

The very general formulæ concerning the prohibition of Sunday work used in certain regulations, particularly those on Sunday observance, apply to sale or business of all sorts.

HOTELS AND RESTAURANTS

The regulations which apply simultaneously to commerce and to hotels and restaurants, owing to a wide definition of the term "shop", usually define what is meant by "hotel" or "public-house". As far as the latter term is concerned, the obligation to hold a licence for the sale of spirits is usually mentioned. The definitions contained in the *Irish Shops (Conditions of Employment) Act* are quoted below as an instance:

"The word 'hotel' means any premises structurally adapted for use, and *bona fide* used as a hotel and having apartments set apart and exclusively used for the sleeping accommodation of travellers;

"The expression 'refreshment house' means a hotel or any premises which are structurally adapted for use as and are used as a restaurant, café or tea shop (whether such premises are or are not licensed for the sale by retail of intoxicating liquor);

"The expression 'licensed premises' means any premises (not being a refreshment house) which are licensed for the sale by retail of intoxicating liquor."

II. — CLASSES OF ESTABLISHMENT OR ACTIVITY EXEMPTED FROM THE REGULATIONS

The word "exemption" is here taken to mean an absolute exclusion from any particular regulation, whether it relates to classes of establishments, of activities or of persons. The setting up of a subsidiary system of weekly rest is not, therefore, regarded as an exclusion.

Exemptions often relate only to a particular national regulation, the classes excluded from general regulations being often covered by separate special regulations.

The exemptions referred to here are those explicitly stated in relation to a given scope. It is not possible to indicate here the classes of establishments not covered at all by the regulations, this having been done above, in connection with the classes of establishment covered.

The exemptions for which the regulations provide may be (a) of a general character; (b) based on the nature of certain activities; (c) based on the nature of certain work; (d) based on the size of the establishment; (e) based on geographical considerations.

§ 1. — General Exemptions

These exemptions relate to all the classes of establishments or of activities covered. The principal case is that of the exemption of public undertakings; this case has already been dealt with in the preceding part, to which reference may be made.

§ 2. — Exemptions based on the Nature of Certain Activities

Formal exemptions based on the nature of certain activities are defined by specifying either particular classes of establishments or particular kinds of work; for the nature of the exemption is the same whether it relates, for example, to "curative establishments" or to "the care of the sick". Such analogous pairs are brought together here.

The exclusions in question vary widely with the nature of the regulations themselves.

Under *regulations on the weekly rest*, the total exemption of certain activities means that the workers in question will be completely deprived of any social protection unless a subsidiary regulation is introduced. Regulations with a social object as a rule exclude, in the field which they define, only those classes of activity which it seemed impossible to control; and when the requirements of the community or the nature of the work require an establishment to operate every day of the week, the regulations introduce special rotation or compensation systems but do not provide for total exemption. In other words, exemption is rare under social legislation.

Among the exemptions found in regulations on the weekly rest, and within the scope defined by these regulations, reference may be made to itinerant trade in *Belgium*, photographers' establishments in *Turkey*, and centres of education and recreation not conducted for profit in *Uruguay*.

On the other hand *regulations on shop closing and Sunday observance* are intended merely to secure the general stoppage of commercial activity on a certain day of the week. Never-

theless, the requirements of the community or the nature of certain operations make exceptions to the general rule indispensable; the exceptions are therefore numerous and of an absolute character. There can be no compensatory system here, since there is no guarantee of a periodical rest for the employed persons in question. As a general rule the regulations with a religious object and those relating to shop closing are content to state that certain activities cannot be suspended on Sundays and do not concern themselves with the consequences of this fact to the workers. Nevertheless certain shop-closing regulations, in *Great Britain* for instance, also contain provisions providing compensatory rest for persons employed on Sundays.

Of course, there is nothing to prevent the employees of establishments which are authorised to open on Sundays in-virtue of an exemption under a shop-closing Act from receiving compensatory rest under some parallel social measure.

The exclusions from the scope of regulations concerning Sunday observance or shop closing vary somewhat from one country to another, but on the whole it may be said that they recur in almost every case.

They are as follows:

Retail Trade

Trade in Foodstuffs

Sale of pastrycooks' products; sale of bread and bakers' products; sale and distribution of milk for domestic consumption; sale and storage of meat, poultry and game; sale and storage of fish and shellfish; sale of fresh fruit; sale of agricultural produce direct by the producer; sale of refreshments in the open air; sale of ice-cream, chocolate and sweets, either in the open air or in entertainment establishments; sale of tobacco; sale of native foods (this exemption is found only in certain provinces of the *Union of South Africa*).

Trade in Goods other than Foodstuffs

Sale of newspapers and periodicals; sale of fresh flowers; sale of wreaths and other decorations for graves; sale of mourning clothes and delivery of clothes dyed for mourning; sale of ice not for human consumption; sale of programmes and catalogues at entertainments, exhibitions, etc.; sale of artistic and luxury products (in tourist centres); sale of souvenirs (in tourist centres); sale of toys in streets, squares and public gardens; sale of bathing and sports requisites (in tourist centres); sale of petrol, oil, materials and spare parts for motor vehicles and bicycles; sale of petrol, oil, materials, etc., required by vessels on arriving, at ports of call, or before leaving.

Establishments Selling Various Types of Products

Pharmacies (sale of medicaments and surgical appliances); fairs and markets; sale by auction of private property at the owner's home; exhibitions of farm and garden produce, live-stock, etc.; artistic exhibitions; station kiosks and bookstalls (sale of newspapers and tobacco); sales for a religious, charitable or public purpose (charity bazaars).

Establishments Rendering Various Services

Hairdressers' establishments and beauty parlours; bathing establishments; massage and hydro-therapeutic establishments.

Offices

Press agencies and newspaper offices; travel and tourist agencies; exchange offices; shipping companies' offices; savings banks, sickness, unemployment and pension funds, etc. (this last provision is to be found in *Finland* only).

Hotels and Restaurants

Hotels and inns; restaurants; public-houses, more particularly beer-houses; establishments selling non-alcoholic drinks, more particularly tea-rooms, refreshment rooms and establishments selling aerated waters; clubs; sale of hot meals in the open air.

Entertainment Establishments

All entertainment establishments, such as theatres, cinemas, music-halls, casinos, concert and lecture halls, sports grounds, etc.

Hospital Establishments

Hospitals, hostels, homes for the aged or infirm, maternity homes, etc. (care of sick and infirm persons).

Educational Establishments

Museums, libraries, picture galleries, etc.; schools and academies of all sorts; botanical and zoological gardens.

Public Services

All those of immediate necessity, and more particularly those responsible for the transmission of messages by telegraph or telephone.

§ 3. — Exemption of Certain Kinds of Work

Few kinds of work are absolutely excluded as such from the scope of the regulations.

Watchmen's and Similar Work

Australia (Tasmanian Sunday Observance Act of 1910), *Belgium* (Weekly Rest Act of 1905), *Canada* (Dominion Lord's Day Act and provincial weekly rest laws of Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec), and the *United States* (weekly rest laws of various States, including Connecticut, Illinois, New Hampshire and Wisconsin).

Cleaning, Repair, Maintenance and Similar Duties, on which the Normal Resumption of Work on the Following Day depends

Australia (Tasmanian Observance Act), *Belgium* (Weekly Rest Act of 1905), *Canada* (Dominion Lord's Day Act and provincial weekly rest laws of Alberta, British Columbia, Manitoba, Prince Edward Island and Quebec) and the *United States of America* (weekly rest laws of various States, including Connecticut, Illinois, New Hampshire and Wisconsin).

Work Required to Prevent the Spoiling of Raw Materials

Belgium (Weekly Rest Act of 1905).

Works of Charity or Connected with Divine Service

Australia (various States), *Canada* (Dominion and various Provinces), *Union of South Africa* (various Provinces), *United States* (various States).

Other Works

In *Finland* the Eight-Hour Day Act of 1917 provides that the authorities may authorise exceptions "when, for reasons arising out of the technical conditions of the work, the season or other important circumstances, it is not possible to put the present Act into operation".

§ 4. — Exemptions based on the Size of the Establishment

Family Undertakings

The regulations of the following countries provide for the exemption of family undertakings:

Finland (Eight-Hour Day Act), *Netherlands* (Labour Act), *Norway* (Workers' Protection Act).

Small Establishments

In the *Dominican Republic* the hours of work Act excludes small establishments in rural areas. In the *United States* the Illinois weekly rest law does not apply to small dairies employing not more than seven persons, and the New York weekly rest law excludes dairies and other establishments in the milk trade not employing more than seven persons. In *Canada* the provincial laws of Ontario and Saskatchewan which apply to hotels, restaurants and cafés, exclude classes of employees in establishments with not more than two employees of the class in question; the corresponding law of Quebec excludes hotels, etc. employing not more than five persons.

In *Japan* the definition of "department store" has been given above. Shops not falling under this definition are automatically excluded from the scope of the Act of 1937.

§ 5. — Exemptions based on Geographical Considerations

These exemptions vary considerably in scope. Some regulations exempt without distinction all establishments situated in places of less than a certain size, whereas others exempt only certain establishments in such places, and yet others make a distinction based not on the size but on the character of the locality and more particularly on its importance as a tourist centre.

In *Brazil* the Decree concerning hours of work in commerce excludes from its scope commercial establishments and offices situated in a "rural area". The same applies in the *Dominican Republic* to small establishments in rural areas, which are excluded from the scope of the hours of work Act.

In *Australia* (Victoria) the Factories and Shops Act applies only to "cities and towns" as far as carting and deliveries are concerned. In *Bulgaria* the Decree of 1936 concerning hours of work in commercial establishments applies neither to establishments in the neighbourhood of stations which are at least a kilometre away from the locality, nor to any establishment in localities with less than 10,000 inhabitants. In *Canada* the Saskatchewan weekly rest law applies only to "cities"; the Ontario weekly rest law (hotels and restaurants) does not apply to towns with a population of less than 10,000, and the similar

Act in Quebec excludes establishments in municipalities of less than 3,000 population. In the *United States* the Minnesota weekly rest law is not applicable to localities of the third and fourth classes; the New York State weekly rest law does not apply, in general, to localities of less than 15,000 inhabitants, nor does it apply to rural places as far as hotels and restaurants are concerned; the Mississippi weekly rest law does not apply to shops in towns of less than 5,000 inhabitants; and the Colorado hours of work law excludes pharmacies in towns of the same size. In *Turkey* places with less than 10,000 inhabitants are as a general rule excluded from the Weekly Rest Act. In *Lithuania* the provisions of the Public Holidays and Rest Days Act of 1930 which relate to commerce apply only to the principal city, Kaunas.

In *Greece* the Sunday Rest Decree of 1930 does not apply to holiday resorts during the summer. In *Hungary* the application concerning the Sunday Rest Act varies with the size and nature of the locality.

Certain of the exemptions mentioned are only optional, since the provisions of the regulations in question may be extended to the exempted places by decision of the authorities; this is, for instance, the case in *Bulgaria*, *Canada* (Saskatchewan), and *Turkey*. In *Australia* the Tasmanian Shops Act does not exclude rural districts *a priori* but makes provision for the possibility of exempting them.

C. — SCOPE AS REGARDS PERSONS

Having indicated which classes of establishments and activities are subject to the regulations considered, it remains to be shown which classes of the persons employed in these establishments or activities are covered by the provisions concerning the weekly rest.

As a rule the classes of persons covered comprise all employed persons, but sometimes the regulations are wider or narrower in scope. They are wider when they include the employer and persons working on their own account, as in the case of general regulations concerning Sunday observance or shop closing. They are narrower when they relate only to some of the persons employed in the establishments or activities covered.

The method adopted for defining the scope of the regulations as to persons is the same as that used for defining the establishments covered. The classes of workers who are covered are indicated first and then those who are excluded.

I. — PERSONS COVERED

To give a clear idea of the scope of the regulations a fundamental distinction must be made between those which apply to employers, workers, and persons working on their own account alike and those applying only to workers.

§ 1. — Regulations Applying alike to Employers, Workers and Persons Working on their Own Account

Regulations which on the weekly rest day prohibit the work of all persons will first be considered, then those explicitly prohibiting the work of the employer in particular, and those requiring establishments to be closed. It should be noted that those which relate to the employer also cover all the workers employed in the establishment.

Prohibition of Work by any Person

The laws prohibiting work on Sunday by any person are generally inspired by religious considerations. The observance of the Sunday rest is an obligation imposed indifferently on employers, persons working on their own account, and workers. In this case social protection is a by-product of the regulations, some of which are of ancient date. There are laws of this kind in *Australia* (Tasmania), *Canada* (Dominion and Provinces of Alberta, British Columbia, Manitoba and Quebec), *Great Britain* and the *Union of South Africa* (Cape of Good Hope and Natal). The *New Zealand* legislation has great similarities with these regulations in that it also contains a general prohibition of Sunday work.

Prohibition of Employer's Work

Prohibition of the work of the employer as such is sometimes prescribed by the weekly rest laws, but it appears that the reasons for such regulations are economic, such as competition with establishments subject to the weekly rest regulations

by employers who continue to sell their goods on the rest day, whether alone or assisted by members of their family.

Among the regulations analysed here only those of *Uruguay* explicitly prohibit the employer's work. They stipulate that the weekly rest must be one of 36 consecutive hours "for any employer, director, manager, acting manager, employee or worker in any undertaking or trade of whatever nature." In *Germany* the prohibition of the employer's work is the result of the application of procedure laid down in the law itself. According to the German Industrial Code when assistants, apprentices or workers are not allowed to be employed in shops on Sundays and public holidays, no commercial activity may take place in such shops. This provision also applies to the commercial activity of consumers' co-operative societies and similar bodies. At the request of two-thirds at least of the persons concerned the higher administrative authority may authorise Sunday work, but only so far as it is allowed for paid workers in a commune or several communes forming a geographical whole. The application of this measure may lead to the complete prohibition of the work of owners of establishments when an exemption to the prohibition of Sunday work has not been allowed for paid workers, as is often the case for hairdressers.

Obligation on Employer to Close the Establishment

Certain laws make it compulsory to close all establishments in order to prevent the competition of small traders working without any staff, who might continue to sell to the public on the weekly rest day. Incidentally they aim at making it easier for the competent authority to supervise the application of the weekly rest.

It should be observed that these laws do not prevent the employer from carrying on business in his shop with the shutters down or in his office with the door closed.

Whereas in general the only restriction on the employer's freedom to work on the weekly rest day lies in the compulsory closing of the establishment, this is usually accompanied by formal provisions prohibiting all paid work on the rest day.

The closing of the establishment is compulsory under certain laws, some of which are general in scope while others apply only to shops.

The closing of all establishments is compulsory in the following countries:

Argentina (Federal capital), *Chile*, *Colombia*, *Germany*, *Greece*, *Lithuania*, *Paraguay*, *Rumania*, *Spain*, *Venezuela* and *Yugoslavia*. In *Colombia* the establishment need not close if the employer, head of the undertaking or trader employs no more than two workers. In *Greece* the employer may work in a commercial establishment provided that his staff is not employed there and that the work is not done in public. The *Lithuanian* regulations state that the owners of commercial establishments who allow outsiders to enter their commercial premises during closing hours are deemed to be carrying on their trade at such time. In *Chile*, during the weekly rest day, industrial and commercial establishments must remain closed; they may not serve customers or sell their special lines of goods and must suspend all work. In *Venezuela* no work of any kind may be done on holidays in the undertakings, establishments and institutions subject to the Act.

Compulsory closing is limited to shops in *Australia* (South Australia), *Denmark*, *Great Britain*, *Ireland*, *New Zealand* and the *Union of South Africa*.

It should be added that the obligation to close commercial establishments on Sunday is prescribed in a large number of the special regulations concerning shop closing hours and of the orders issued by the local or other administrative authorities in nearly every country.

Prohibition of Work on One's own Account

One means of preventing competition with establishments which have to close on the weekly rest day lies in prohibiting work done by a person on his own account in public on that day. Such a prohibition prevents small shop-keepers from running their business without assistance, and hawkers and stall keepers, commercial travellers and representatives, from selling their goods.

Provisions of this kind are to be found in the laws of *Argentina*, *Chile*, *Ecuador*, *New Zealand* and *Spain*. In *Argentina*, in the Federal capital, manual work on account of another and also manual work done publicly on the worker's own account in factories, workshops, commercial establishments and all other establishments and workplaces is prohibited. In *Chile* the Sunday

rest applies to the owners of undertakings working alone. In *Ecuador* the prohibition covers work done on the worker's own account if performed publicly in factories, workshops and commercial establishments and in other workplaces. In *New Zealand* the law prohibits work or trade by any person in or in view of any public place. In *Spain* the prohibition relates to work done publicly on the worker's own account, that is, if performed in the public streets or if it can be seen therefrom.

§ 2. — Regulations applying to Employed Persons

The great majority of weekly rest regulations exclude employers and persons working on their own account from their scope and cover only workers employed on account of another person.

Nearly always the regulations apply to the whole of the staff employed in the establishments and activities covered, apart from the clearly defined exceptions mentioned below.

The wide scope of the regulations is easy to understand, for the right of commercial and office employees to a weekly rest in an appropriate form is not as a rule contested. Nevertheless, the definitions of the persons covered differ somewhat according to country and consequently the scope of the regulations may be more or less general. They are considered below according as they apply to all workers, to all persons in paid employment, or only to certain classes of paid workers.

Application to all Employed Persons

Regulations Applicable to Persons working on Account of Another

The staff working "on the account of another" or "of a third party" is the term used in the regulations of *Italy*, *Mexico*, *Norway*, *Spain* and *Sweden*. In *Mexico*, the regulations apply to any person who performs for another a material or intellectual service, or both, under a contract of employment. In *Norway* they apply to any person who performs work in the service of another elsewhere than in his own home. In *Spain* work on account of another is defined as work performed by order of another person for which the person who performs the work

receives no profit other than the wage or remuneration paid to him.

Regulations Applicable to Commercial Establishments and Offices in General

A large number of the regulations state that they apply to "the persons", "the staff", or "the workers" employed in the establishments covered. These various definitions cover all workers whether in receipt of remuneration or not.

The expression "persons" is used in the regulations of *Belgium, Colombia, Luxemburg* and the *United States* (most States). In *Belgium* a person who manages a retail shop on account of another, in so far as he takes part in the sale of goods, is covered, as also all members whatsoever of the family of the manager of the retail shop. In *Colombia* all persons are covered who work regularly for the occupier of the establishment, even if they help regularly in the management thereof or are members of the employer's family and it is alleged that they are not in receipt of special remuneration for their services.

The expression "the staff" is to be found in the regulations of *Hungary* and *Yugoslavia*. In the latter country the employer is prohibited from employing the staff on any work whatsoever on the weekly rest day.

In some countries the expression used is "the workers", as in the *Dominican Republic, Ecuador, Finland, the Netherlands, Portugal, Sweden* and *Switzerland*. In *Finland* the term "worker" means any person who does work under the management and supervision of another in an undertaking subject to the Act. In the *Netherlands* workers are defined as persons of either sex who perform work, whether regularly or not. The *Swiss* Federal Act treats any person as a worker if he is employed for the service of an undertaking covered by the Act, whether in the undertaking itself or in operations connected therewith. Under the administrative regulations the term workers also covers apprentices and student employees, and likewise persons who take part in the work of the establishment in the same manner as paid employees without being under an agreement with the head of the establishment. A circular has been issued explaining that this provision means that the Act can be extended to musicians and artists as well as to all persons employed in a sports undertaking.

Regulations Applicable to Certain Classes of Commercial Establishments and Offices

In some countries the regulations apply to the whole staff of certain classes of commercial establishments and offices, for instance *Brazil, Canada* (Ontario and Quebec), *Cuba, Great Britain, New Zealand* and the *U.S.S.R.*

In *Japan* the Department Store Act applies, for the undertakings covered, to the whole staff, irrespective of age, sex, or category. The position is the same under the Shops Act in the case of establishments employing 49 persons or less. In *New Zealand*, under the Shops and Offices Act, the term "office assistant" means any person employed in the offices covered by the Act, and the term "shop assistant" any person other than the wife or husband of the occupier, as the case may be, who is employed by the occupier of a shop in connection with the business of a shop. The expression covers also any person who by reason of his employment in the general management or control of a shop is deemed to be included in the term "occupier" as defined in the Act and whose wages do not exceed £6 a week in the case of males, or £4 a week in the case of females.

In the *U.S.S.R.* the special regulations for medical and health establishments, veterinary establishments, pharmacies, entertainment undertakings, the cinematograph industry, and postal, telegraph, and telephone services apply to the whole of the staff. The position is the same in *Cuba* for persons employed in newspaper undertakings: editors, reporters, salaried employees and all other persons in the service of the undertaking are included.

In *Canada* (Ontario and Quebec) there are special weekly rest laws for persons employed in hotels, restaurants and clubs.

In *Brazil, Great Britain* and the *U.S.S.R.* the regulations in force for entertainment undertakings apply to the whole staff of these undertakings.

This is also the case in a number of countries under the special regulations for postal, telegraph and telephone services.

Application to all Paid Workers

Besides the many regulations applying to all workers or persons working on account of another, there are also a number which provide a weekly rest for "paid workers". It would be wrong to try to draw too definite a distinction between these

two groups of regulations. It should be recognised that the expression "paid worker" is narrower than that of "worker", since probationers, apprentices and members of the employer's family may be unpaid; not being paid workers, they would be excluded from regulations applying only to such workers. But often these classes of workers are treated wholly or partly on the same footing as paid workers. Sometimes, as in *Estonia*, *Hungary* and *Rumania*, the law removes any uncertainty on the question of apprentices by explicitly stating that they are included in its scope.

The general legislation of the following countries applies to all paid workers: *Brazil*, *Estonia*, *Honduras*, *Latvia*, *Norway*, *Poland*, *Rumania*, *Salvador* and the *U.S.S.R.* While in *Norway* a paid worker is deemed to be any person engaged in work elsewhere than in his own home in the service of another, in the *U.S.S.R.* the regulations apply to all persons who work for wages, including those working at home. In *Poland* the existence of a contract of employment and in *Estonia* the existence of a contract of employment or apprenticeship is an additional condition. In *Salvador* the regulations apply to any person who is under an obligation to give his services to a person engaged in commerce or in a commercial business or undertaking for the purpose of carrying on business within the scope of the undertaking concerned or in its immediate interest, in return for a regular salary, and who performs the said services by way of trade and permanently devotes his physical and intellectual capacities thereto with a view to earning a living.

Application to Wage Earners and Salaried Employees

Several laws equally general in scope apply to wage earners and salaried employees. It is probably that here, too, the difference in terminology does not correspond to any substantial difference in scope and that all workers in these countries are in practice covered. In any case there can be no doubt that the regulations apply to the great majority of workers employed in the undertakings covered.

Use is made of the expression "wage earners and salaried employees" in *Bulgaria*, *Chile*, *Cuba*, *France*, *Germany*, *Guatemala*, *Haiti*, *Turkey* and *Venezuela*.

In *Germany* the Industrial Code prohibits the employment of salaried employees, wage earners, assistants and apprentices

on Sundays and public holidays. According to the commentaries made on legal decisions concerning the interpretation of this provision, it covers persons who in commercial undertakings are not engaged in commercial activities, such as packers, labourers, transport staff, etc. The employee's length of service is taken into account as little as the question whether his relation with the undertaking is more or less close, whether he is an intermediary or accredited agent, or whether he is an independent trader or an employee.

Application to Certain Classes of Workers

Besides the regulations applying to the whole staff of the establishments covered, a certain number affect only some of the workers. Some of them may relate only to office employees, as in *Bolivia*, shop assistants, as in *Great Britain, Ireland* and the *Union of South Africa*, persons performing manual work, as in *Paraguay*, or material work, as in *Peru*, hospital employees, as in *Germany* and *New Zealand*, women only, as in *Egypt*, or women and young persons, as in *Japan*.

In *Bolivia* a "salaried employee" is defined as any employee in an office in any branch of commerce.

In *Great Britain* and in *Ireland* the Shops Acts appear to cover the whole staff of shops. A "shop assistant" is defined as any person wholly or mainly employed in a shop in connection with the serving of customers or the receipt of orders or the despatch of goods; the Irish Act adds to these activities the packing or unpacking of goods. In the case of premises for the sale of refreshments, the definition of "shop assistant" includes all persons wholly or mainly employed in any capacity at the premises in connection with the business there carried on. The members of the employer's family are thus covered. In *Ireland*, however, persons employed in office work or in management are excluded.

In the *Union of South Africa* the Shop Hours Ordinances of the Cape of Good Hope and Natal enumerate the classes of persons who are not covered. In the Cape of Good Hope the Ordinance excludes any person employed solely as a manager, with one or more assistants under him, or as a department manager, timekeeper or caretaker, or any person employed solely for cleaning purposes, packing, receiving or delivery of

goods, or for the prevention of fire, or as a traveller, shipping clerk or member of the counting-house staff or the directorate. The expression "department manager" in respect of a retail business means a department manager who has at least one shop assistant serving under him in the department. In Natal, the regulations exclude shopkeepers and any person employed solely as a caretaker or as a cleaner or other domestic servant.

In *Paraguay* the performance of manual work on account of another and of manual work done publicly on the worker's own account in factories, workshops, commercial undertakings and other establishments or workplaces is prohibited. It is added that by "manual work" is meant any employment in which the exercise of physical powers predominates.

In the *German* and *New Zealand* hospitals the regulations apply to staff whose work is directly connected with the care of the sick. Thus in *Germany* they apply to persons who are engaged mainly in nursing duties in a hospital establishment in virtue of their status as employees or apprentices, or who perform household or other duties directly connected with the care of patients. In *New Zealand* the regulations concerning private hospitals apply to members of the nursing staff, that is persons registered as nurses, midwives or maternity nurses, or persons not so registered but employed on nursing duties and who may or may not perform in addition domestic duties.

In *Japan*, under the Shops Act, the provisions concerning rest days differ according as the establishment employs 49 persons or more; if 50 or more persons are employed, only women and young persons of under 16 years are covered.

II. — PERSONS EXEMPTED

Whereas the classes of persons subject to weekly rest regulations are as a rule defined in general terms, usually covering all workers employed in commercial establishments and offices, those exempted, if any, are exactly enumerated and defined. For the determination of the scope of the regulations, a clear definition is as necessary as regards the exclusion of certain classes of persons as it is for the exclusion of certain classes of establishments.

The exemption may relate to the employer or to specified classes of workers.

§ 1. — Exemption of Employers

It has been shown that most of the national weekly rest regulations proper apply only to workers. A certain number make the position more definite by stating that the employer is not covered, and in that case the term "employer" is sometimes defined and the circumstances in which he is excluded are indicated.

Exemption pure and simple of employers is to be found in the general laws of *Finland*, *Norway* and *Yugoslavia*, in the *British* legislation restricting business in shops and entertainment undertakings on Sunday, and in the *Japanese Shops Acts*.

In *Argentina* the regulations for the Federal capital do not exclude the employer unless he ordinarily or temporarily works alone.

In *Belgium* the regulations apply neither to the head of the undertaking nor to the person managing a retail shop on account of another.

The term "employer" is defined in *Bulgaria*, *Estonia* and the *Netherlands*. In the *Netherlands* he is the head or manager of the undertaking; in *Bulgaria* he is defined as the owner, manager or head of the undertaking; and in *Estonia* the elected members of the boards of limited liability companies are treated as employers.

§ 2. — Exemption of Certain Classes of Workers

The weekly rest regulations in several countries authorise the exemption of certain classes of workers, but the method is not adopted everywhere owing to the fact that it is often preferred to include the workers in question, while leaving it open, if necessary, to apply a special system to them allowing some flexibility.

In some cases persons are exempted on account of the high position they hold, in others because of their financial interest in the undertaking, or because they belong to the employer's family or are engaged only temporarily, etc.

As the exemption of persons engaged in particular activities is discussed in the section concerning the activities covered or excluded, it will be sufficient here to consider the exclusion of workers on grounds valid for all establishments, namely, relationship with the employer, special responsibility, perfor-

mance of work outside the establishment, special nature of remuneration, performance of home work or domestic work, etc.

Members of the Employer's Family

The exemption of members of the employer's family from the regulations is of particular importance in commerce, and especially in small trade, where they often form the main body of the staff. As the situation of those members of the employer's family who are employed in family undertakings has been discussed in connection with those undertakings, account will be taken here only of the provisions for establishments employing paid labour.

In about a dozen countries the regulations permit the exemption of members of the employer's family, and some of them define this term in order to prevent abuse.

The regulations of the following countries exclude members of the employer's family from their scope: *Belgium, Estonia, Hungary, Ireland, Latvia, Luxemburg, the Netherlands, New Zealand, Sweden and Yugoslavia.*

Whereas in *New Zealand* the exemption applies only to the employer's wife (husband), in *Hungary* (hotels and restaurants) it applies also to his children.

The relatives (not farther removed than the third degree) of the employer are excluded from the regulations in *Belgium, the Netherlands and Switzerland*, on condition that they live with the employer in the same household. In the *Netherlands*, in shops, pharmacies, and hotels and cafés the exclusion applies to the wife and relatives up to the third degree of the head or manager of the undertaking living with him. In *Switzerland* the regulations exempt persons who are relatives, not farther removed than the third degree, of the head of the undertaking or the manager or of his wife (her husband) and who actually belong to the family group, and likewise children brought up in the family or placed in it by the public assistance authorities.

In *Latvia* members of the employer's family are exempted provided they are unpaid. Otherwise their exemption depends on whether they are responsible for the management or supervision of the work or are employed in a confidential capacity.

Lastly, in *Ireland* the regulations exclude from their scope the relatives of the proprietor of a shop, the term "relative" being defined as the wife, husband, father, mother, grandfather,

grandmother, step-father or step-mother of the proprietor, or the son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother or half-sister of the proprietor, provided they are maintained by him and dwell in his house.

Persons holding Positions implying Special Responsibility

The regulations of several countries provide for the exemption of certain classes of persons who hold high positions in the establishment. As in most cases the persons in question are responsible for the management or supervision of staff, any work they do on the weekly rest day, if the undertaking has to close on that day, must consist in checking and organising work. On the other hand, in establishments which are entitled to grant the weekly rest in rotation, the higher-grade staff in question may be required to work for considerable periods unbroken by a weekly rest, unless they are covered by legislation limiting hours of work. In point of fact, however, the classes of workers who are employed in higher positions are usually excluded from the scope of regulations limiting hours of work¹. It is in order to prevent abuses that the regulations of many countries bring all workers under the weekly rest legislation, whatever their functions.

A distinction may be drawn among higher-grade staff between persons holding a position of management, those employed in a confidential capacity, and those holding a position of supervision.

Persons holding a Position of Management

The result of exempting persons holding a position of management is to place on an equal footing with employers, when the latter are not covered by the weekly rest regulations, those of their collaborators who share in the responsibility for and management of the undertaking. If, however, the expression "position of management" is interpreted more widely, it would be possible to exempt not only the higher employees who are, properly speaking, responsible for management, but

¹ For a detailed analysis of the provisions under which persons in posts implying special responsibility can be excluded from the scope of the regulations, cf. the Grey Report on the Generalisation of the Reduction of Hours of Work, Part I: Industry, Commerce and Offices.

also heads of departments or foremen, who, in large stores for instance, may form a by no means negligible proportion of the total staff. Owing to the wide interpretation given to this term, its meaning has been specifically limited in certain countries.

In *Brazil* (various Decrees), *Canada* (Manitoba and Saskatchewan), the *Dominican Republic*, *Hungary*, *Italy*, *Latvia*, *Norway* and the *United States* (Connecticut and Illinois), the regulations exclude persons holding a position of management but do not define this expression. The various Brazilian Decrees add the expression "positions of direction".

The regulations of *Brazil* (newspapers, banks, pawnshops), *Canada* (Ontario), *Estonia*, *Finland*, *Italy* and the *Netherlands* define the expression.

In *Estonia* it is taken to mean persons responsible for the management and supervision of work, such as managers, accredited agents, directors; in *Finland*, persons who do not work under the direction or supervision of another; in *Italy*, the staff responsible for the technical and administrative management of an undertaking and directly responsible for the satisfactory working of its services; in the *Netherlands*, the head or manager of the undertaking and his wife (her husband); and in *Switzerland*, persons holding a position of management and members of their family.

Further, in the *Netherlands* the Labour Act provides that public administrative regulations may be issued to provide, either conditionally or unconditionally, that in some or all shops and offices the regulations shall not apply to the work of persons exclusively or mainly responsible for the management of an undertaking or of a department thereof.

For shops, use has been made of this provision to exempt: (a) any person who, although not the head or manager of the undertaking, is head of a shop or a department thereof and exclusively or mainly responsible for the control of the persons employed therein; (b) any person who, although not head or manager of the undertaking, is head of a shop in which at least three persons perform work as a rule in addition to the head of the said shop, for not less than 32 hours a week each; (c) chief clerks, heads of managing departments, chief accountants and heads of departments, in so far as they have full control and charge of workers engaged in the management, correspondence or accounting of the undertaking; (d) warehouse foremen and

chief despatchers, provided that their work consists exclusively or mainly in supervising the warehouse or the despatching or receipt of goods and that they are responsible for keeping order in the warehouse and for the goods or materials therein.

For offices, the authorised exemptions are as follows: (a) any person who, although not head or manager of the undertaking, is head of an office or a department thereof and exclusively or mainly responsible for its management; (b) chief clerks, heads of managing departments, chief accountants, chief cashiers and heads of departments, in so far as they are in charge of workers engaged in the administration, correspondence, cashier's work or book-keeping of the undertaking; (c) heads of drawing offices.

Lastly, in *Brazil* two of the Decrees concerning the weekly rest define the classes of persons excluded. In newspaper undertakings the regulations do not cover editors-in-chief, secretaries and assistant secretaries, heads and assistant heads of proof-reading departments, and heads of illustrations offices. In banks and pawnshops persons who hold positions of direction, management or supervision, heads and assistant heads of departments and the like are excluded.

Persons employed in a Confidential Capacity

Only a few countries exempt persons employed in a confidential capacity.

Their exemption is allowed under the regulations of *Brazil*, *Canada* (Manitoba), the *Dominican Republic*, *Latvia*, *Norway* and the *Netherlands*.

In *Brazil* the Decree concerning the weekly rest in banks does not apply to persons who hold positions of trust and are in receipt of remuneration which is higher than that for their actual post. In *Norway* the Workers' Protection Act does not apply to duties indicating that the person in question is employed in a particularly confidential position.

In the *Netherlands* the Labour Act provides that public administrative regulations may be issued to provide, either conditionally or unconditionally, that in some or all establishments persons who are exclusively or mainly responsible for scientific research or scientific supervision may be exempted. Use has been made of this power in the Decree concerning hours of work in offices, which exempts persons responsible for

scientific work necessitating a scientific education at least equivalent to that required for the granting of a degree by a Netherlands university or college. Similarly, the Decree on hours of work in pharmacies does not apply to persons responsible for scientific research or scientific testing if this work necessitates education at least equivalent to the education required for the submission of a thesis at a university.

Persons holding a Position of Supervision

As in the case of persons employed in a confidential capacity, the exclusion of persons holding a position of supervision is to be found under the regulations of a few countries only, often the same as those which authorise the exemption of persons employed in a confidential capacity. Although the term "position of supervision" does not in itself show whether the supervision is of persons only or also of premises and materials, certain regulations do not contain the necessary additional information ¹.

The regulations of the *Dominican Republic* exclude persons holding a position of inspection; the *Estonian* and *Latvian* regulations, the supervision of work; those of *Canada* (Ontario) and the *United States* (New York, Illinois and Connecticut), foremen; those of *Norway*, supervisory duties; and those of *Brazil*, persons engaged in duties of outside supervision or control.

In the *Netherlands* the Decree concerning rest periods in cafés and hotels excludes any man or woman who, although not head or manager of the undertaking, is head of a café or hotel or a department thereof and exclusively or mainly responsible for the control of the persons employed therein.

In *Switzerland* the Federal Weekly Rest Act does not apply to persons employed in an important confidential capacity in the establishment. A circular has been issued giving the following example of the exclusion of such persons: the head waiter and the chef of a large hotel with a much-frequented restaurant (an establishment with a permanent staff of about 50 persons) were recognised as being employed in a confidential capacity. The decision in question stated, however, that no

¹ As the exclusion of persons employed in the work of supervising material or premises, such as storekeepers or watchkeepers, has already been dealt with in the section of this chapter dealing with the activities excluded, account is taken here only of the supervision of persons.

general rule might be drawn from it, since each case must be judged on its merits. For example, a cinema operator who had wide powers, though not in excess of the usual measure, was not deemed to be "a person employed in an important confidential capacity".

The regulations issued under the Federal Weekly Rest Act give the following interpretation of the expression: (a) persons belonging to the liberal, artistic or technical professions who hold a post in the undertaking which is appropriate to their education or practical training and which involves great responsibilities; (b) all other persons who, owing to the responsibilities assumed by them, the remuneration which they receive or the powers conferred upon them, occupy a prominent position in the undertaking and are required to a great extent to take independent decisions.

Travellers, Representatives and Persons employed in Outside Services

Weekly rest regulations rarely mention travellers, representatives and persons employed in outside services.

These classes of workers are specifically exempted only in *Brazil, Ecuador, Estonia, Finland, New Zealand and Norway*.

In *Brazil* the Decrees authorise the exclusion of travellers, representatives, salesmen, buyers and collectors whose service is outside the undertaking. In *Ecuador* and *Norway* the work of representatives, commission agents and travellers is excluded if done outside the fixed working-place of the establishment. In *Finland* the Act does not apply to travellers and representatives. In *Estonia* the regulations exclude these classes of workers if they are employed outside the commercial establishment or office on work which, by its nature, is irregular and therefore cannot be comprised within a specified period.

In *New Zealand* it is provided that the exclusion applies to persons employed principally as *bona fide* commercial travellers, meaning thereby persons employed by merchants as commercial travelling agents for the purpose of selling goods to or seeking goods from persons who are dealers therein and who buy to sell again.

Other Reasons for Exemption

As already mentioned, the regulations of certain countries allow the exemption of persons for reasons other than those

described above. As these reasons apply only in a few countries, it will be sufficient to mention them briefly.

Persons with an Interest in the Undertaking

In *Brazil* the various Decrees do not apply to persons with an interest in the establishment where they are employed. In *Italy* the Weekly Rest Act does not apply to persons working for a share in the profits; in the case of persons working for both a wage and a share in the profits, the dominant characteristic of the relationship is that taken into account.

Persons whose Total Remuneration Exceeds a Specified Sum

In *Hungary* the regulations for employees in general and those for the staff of hotels, restaurants, etc., do not apply to persons whose total remuneration exceeds 6,000 pengö a year. In *New Zealand* wages are used as a criterion to determine whether a person is to be regarded as an occupier on account of his work in the general management or control of a shop or office. Further, the arbitration award for insurance workers excludes clerical staff and inspectors who are in receipt of over £450. In the *Netherlands* the regulations concerning hours of work in offices, as also those concerning cafés and hotels, do not apply to any man or woman whose annual earnings in the undertaking in which he or she is employed, exclusive of gratuities, amount to more than 3,000 gulden. In cafés and hotels, tips are not included in this sum.

Employees whose Presence is not Indispensable for the Operation of the Undertaking

In *Hungary* the Order for the staff of hotels, restaurants, etc., does not apply to employees whose presence is not indispensable for the operation of the undertaking.

Employees Excluded owing to the Hours they Work

In *Canada* (Ontario) the regulations concerning hotels and restaurants exempt employees who are not employed for more than five hours in any one day. Identical provision is to be found in the general Weekly Rest Act for Saskatchewan.

Establishments Employing not more than Two Persons

In *Canada* (Ontario) the regulations concerning hotels and restaurants exempt any class of employees when there are not more than two employees of that class in the establishment.

Persons whose Employment is not Permanent

In *Bolivia* and *Colombia* the regulations do not apply to persons whose services are not permanent. This is also the case in *Brazil* (entertainment undertakings) for persons who give single performances but are not employed permanently.

Persons working on their Own Account or by the Job

In *Brazil* (entertainment undertakings) persons who work on their own account or by the job are excluded.

Home Workers

Although in general home workers are not covered by the weekly rest regulations, they are explicitly excluded in some countries. Thus in *Bolivia* the regulations do not apply to persons who perform work from their own homes and do not attend daily at the office to which they are attached. In *Sweden*, workers engaged on home work or in conditions which mean that the employer cannot be deemed to supervise the organisation of the work are exempted. In *Switzerland* the Federal Weekly Rest Act excludes persons working in their own home or workshop.

CHAPTER III

GENERAL SYSTEM OF WEEKLY REST

In almost every country, as has been stated in Chapter I, there are regulations providing for a day of rest at regular intervals for most persons in employment in commerce and offices.

This chapter describes the characteristics of the systems which exist as general measures applicable to all, or the great majority, of the persons covered by the regulations. It does not take account of such departures from the general rule as may be required to meet the case of particular classes of establishments or of persons, nor the exceptions which are permitted in particular circumstances. These are examined in the subsequent chapters.

This chapter examines the intervals at which weekly rest is granted, the day on which it is customarily granted and the minimum length of the weekly rest.

A. — INTERVALS AT WHICH THE WEEKLY REST IS GRANTED

§ 1. — Weekly Rest One Day in Seven

The expression "weekly rest" is usually deemed to imply one day of rest in every period of seven days. This rule is almost universal. It constitutes the basis of the regulations in force in all the countries covered in this report, except *Japan* and the *U.S.S.R.* In the latter country, though one day of rest in every five or six is usual, one day of rest in seven is provided for by law in certain cases, more especially in the rural areas.

In a few countries, in particular *India*, *Iran* and *'Iraq*, no legislation exists as regards weekly rest in commercial establishments. In *Iran* and *'Iraq*, however, practice, based on religious custom, leads to a weekly day of rest for most employees. In

India the weekly rest is customarily observed by all Government offices and by most modern large-scale commercial houses and private offices but this custom does not necessarily extend to small establishments engaged in retail trade.

§ 2. — Weekly Rest at Intervals Other than One Day in Seven

A weekly rest at intervals other than one day in seven only arises in virtue of regulations in *Japan* and the *U.S.S.R.*

In *Japan* the practice is to determine the number of rest days granted in any month. The only relevant legislation is the Department Store Act and the Shops Act. Under the Department Store Act the minimum monthly holidays are fixed at three days in the six largest cities and at one day in other areas. The Shops Act provides that at least one rest day per month must be given to employees in shops in which 49 persons or less are employed. In shops employing more than 50 persons at least two days a month must be given to young persons under the age of 16 and to women.

In the *U.S.S.R.* a number of different systems apply, the weekly rest in commercial establishments being largely dependent on the provisions relating to weekly rest applicable to the persons employed in the industrial undertakings who are their customers. A weekly rest in commercial establishments may thus be granted either on one day in every five or on one day in every six. In rural districts, as has been stated above, it is customarily granted on one day in every seven. A rest of one day in five is the most frequent case in commercial establishments working in connection with industrial undertakings which continue to operate every day, the periodic rest being granted to the workers by rotation, while the system of granting one day in six is usual in the commercial establishments working in connection with the more numerous undertakings which grant the rest day to all their workers on the same day.

B. — DAY ON WHICH THE WEEKLY REST IS GRANTED

§ 1. — Weekly Rest on Sunday

The regulations in force in most countries seek to secure that the weekly rest shall be granted on Sunday to all employees. It is of course clear that there are many occupations in which

work on Sunday cannot be avoided. In such cases the worker is usually granted another day off in compensation, though in some cases he may receive special remuneration for the work performed on Sunday. These exceptions to the general rule are all referred to in the two next chapters. In the following countries the regulations, though providing for exceptions, explicitly refer to Sunday as the usual day of rest for the majority of employees covered: *Argentina* (Federal Capital Territory), *Australia* (States of New South Wales, Queensland, South Australia and Western Australia, as regards shops legislation and Tasmania as regards the Sunday Observance Act), *Belgium*, *Bolivia*, *Brazil*, *Bulgaria*, *Canada*, *Chile*, *Colombia*, *Cuba*, *Denmark*, *Dominican Republic*, *Ecuador*, *Estonia*, *Finland*, *France*, *Germany*, *Great Britain*, *Greece*, *Guatemala*, *Haiti*, *Hungary*, *Ireland*, *Italy*, *Latvia*, *Lithuania*, *Luxemburg*, *Mexico*, *Netherlands*, *New Zealand*, *Norway*, *Paraguay*, *Peru*, *Poland*, *Portugal*, *Rumania*, *Salvador*, *Spain*, *Switzerland*, *Turkey*, *Union of South Africa*, *United States of America* (in those territories in which there are Sunday observance laws), *Uruguay*, *Venezuela* and *Yugoslavia*.

Sunday is usually defined as the period from midnight to midnight, though in *Rumania* the period of 24 consecutive hours runs from 6 a.m. at the latest on Sunday to 6 a.m. on Monday.

In most of these countries exceptions to the rule that the rest day should be taken on Sunday are provided only for particular classes of establishments, such as shops selling foodstuffs and certain other goods at retail, hotels, restaurants, hospitals, entertainment establishments, hairdressers, etc., or in special circumstances. These cases are examined in Chapters IV and V.

In some countries, however, the exceptions provided in the regulations are much more general in character, though they may lead through their interpretation in practice to much the same results as the more detailed regulations found in most countries.

In the following countries regulations provide for the substitution of another day for Sunday in general terms without specifying the circumstances: *Canada* (Provinces of Manitoba and Saskatchewan), *Estonia*, *Luxemburg*, *Netherlands*, *Poland*, *Portugal*, some States of the *United States of America* and *Yugoslavia*.

The weekly rest laws of the *Canadian* Provinces of Manitoba and Saskatchewan and the regulations in *Estonia* and *Luxemburg*, as well as some of the State laws of the *United States of America*, simply indicate that the rest should be given on Sunday where possible or as far as possible. It should be added that in the *Canadian* Province of Manitoba a Sunday Observance Law also exists.

In the *Netherlands*, *Poland* and *Portugal*, the rest is to be taken on Sunday unless some other day is granted. In *Poland* it is indicated that this is regarded as a special case and in *Portugal* good cause must be shown for the change.

In *Yugoslavia* the change may be made by the Minister if three-quarters of the workers concerned so request.

Substitution of another day for Sunday is related to the nature of the work, the proper working of the establishment or technical causes in *Brazil*, the *Dominican Republic*, *Ecuador*, *France*, *Guatemala*, *Haiti*, *Italy* and *Latvia*.

In *France*, whenever the simultaneous rest of the whole staff of an establishment on Sunday would cause prejudice to the public or compromise the proper working of the establishment, the weekly rest may be given either during the whole year or during any part thereof on another day, or from Sunday noon to Monday noon, or a Sunday afternoon may be given with a compensatory day off each fortnight by rotation, or a rotation system may be introduced as regards the rest day for the whole or for part of the staff of the establishment. A special permit is required to make any of these changes. Closely related provisions exist in *Guatemala* and in *Haiti*.

In *Brazil* and the *Dominican Republic* the rest is granted on Sunday unless there is an agreement to the contrary made between the employers and workers concerned, either on grounds of public interest or owing to the nature of the work.

In *Ecuador* such an agreement may be made with the approval of the Minister of Labour if, owing to circumstances, work cannot be interrupted during the week-end.

In *Italy* the Labour Charter qualifies the obligation to grant Sunday rest by indicating that all contracts of employment shall apply the principle with due regard to the provisions of the existing laws and the technical requirements of undertakings.

In *Latvia* reference is also made to exceptions for technical reasons related to the nature of the work.

§ 2. — Weekly Rest on a Day Other than Sunday

It should be pointed out that the customary day of weekly rest in the Mohammedan countries is Friday, though in *Turkey* the rest day is granted on Sunday and in *Egypt* it is not specified by law. No legislation on the subject exists in *Iran* and *Iraq* but the rest day is in practice customarily granted on Friday.

Apart from the countries which are covered in this report it should be pointed out that in *French Morocco* and in *Tunis*, for instance, a choice of days is given. In *Morocco* the weekly rest must be granted on Friday, Saturday or Sunday, or on the Arab market day, simultaneously to all the European or North African staff of any establishment. The employer must inform the official entrusted with labour inspection of the day fixed for the closing of his establishment. In *Tunis* similar provisions exist, the choice between Friday, Saturday and Sunday being left to the employer.

§ 3. — Weekly Rest Day Unspecified

In certain countries no particular day of weekly rest is mentioned in the regulations. In such cases the legislation usually confines itself to stating that the rest shall be granted on one day in seven. This is the situation which prevails in the *Australian States* of Queensland and New South Wales, *Egypt*, *Honduras* and in many States of the *United States of America* (e.g. California, Illinois, Massachusetts, Minnesota, New Hampshire, New York, Pennsylvania, Wisconsin and the Territory of Puerto Rico). In the States of *Australia* referred to above, however, awards and industrial agreements usually provide that the rest shall be taken on Sunday and Shops Acts provide for Sunday closing. Similarly, in the *United States of America* Sunday observance laws exist in many of those States side by side with the laws providing for one day of rest in seven.

In *Japan* the monthly days of rest are not specified by law, and in the *U.S.S.R.* the periodic rest may be arranged among the workers by rotation in the case of commercial establishments dependent on industrial undertakings which operate every day. In the cases in which work ceases throughout the whole establishment, the periodic days of rest always fall on the same days of the month.

C. — MINIMUM PERIOD OF WEEKLY REST

Certain regulations specify the minimum period in terms of hours but this period is not always so clearly stated and sometimes has to be inferred. Further, it sometimes consists not only of the weekly rest day itself but also of a half-holiday which may by regulations have to be taken on the day before or the day following the weekly rest day, or, in other cases, may be taken on any other day of the week. In addition, regulations requiring the closing of establishments or requiring work to cease at a certain hour of the evening on the eve of the weekly rest day, or prohibiting the opening of establishments or the resumption of work before a certain hour on the day following the rest day, have the effect of prolonging in practice the minimum period of rest.

§ 1. — Minimum Period of the Weekly Rest Itself

In all countries the general period of weekly rest amounts to at least 24 hours. Such exceptions as there are to this rule usually apply only to limited classes of establishments or persons and arise out of the character of the work involved or the needs of the public.

These exceptional cases are dealt with in the next chapter.

In certain cases, however, a longer period is explicitly stated in the law, quite apart from provisions relating to the weekly half-holiday or to the consequences of the shop-closing regulations. The following are the various periods given in the countries which provide for a weekly rest period in excess of 24 hours:

33 hours: In *Chile*, in virtue of the Labour Code, which requires industrial and commercial establishments to remain closed from 9 p.m. on Saturday to 6 a.m. on Monday.

34 hours: In *Denmark*, where buying and selling is prohibited from 8 p.m. on Saturday to 6 a.m. on Monday.

35 hours: In the *Argentine Republic*, as regards the Federal Capital Territory, and in *Turkey*.

36 hours: In *Bulgaria*, *Uruguay* and *Yugoslavia*.

38 hours: In *Finland* and in *Luxemburg*, as regards salaried employees doing work of an intellectual character in establishments employing not more than 20 persons.

42 hours: In *Ecuador* and in *Latvia*.

43 hours: In *Luxemburg*, as regards salaried employees doing work of an intellectual character in establishments employing more than 20 persons.

§ 2. — Weekly Half or Whole Holidays Contiguous to Weekly Rest Days

In a number of countries the minimum period of weekly rest is prolonged by the requirement that the rest days shall be preceded or followed by a half-holiday. This is the case in *Australia* (by the Shops Acts of New South Wales, Victoria and Tasmania), *Chile*, *Ecuador*, *France*, *Hungary*, *Italy*, *Latvia*, *Luxemburg*, *New Zealand*, *South Africa*, *Turkey* and *Yugoslavia*.

In *Australia* the half day is required under the Shops Acts in New South Wales, Queensland, Victoria and Tasmania, subject to the exceptions for the sale of certain products of prime necessity, as well as under the awards of most of these States applicable to commercial establishments. In Tasmania, in the towns of Hobart and Glenorchy, two consecutive rest days a week must be given in all shops, except exempted shops.

In *Chile* commercial establishments are closed after 1 p.m. on Saturday by decree.

In *Ecuador* the weekly rest of 42 hours must include a half-holiday contiguous to the weekly rest day.

In *France* a Decree provides for a half day, usually taken on the Monday morning contiguous to the weekly rest day in Paris department stores. Further, undertakings working less than 38 hours a week and undertakings working between 38 and 45 hours a week, the staff of which have no direct contact with the public, may, without special authority, work a 5-day week. In the case of establishments working less than 45 hours a week, and the running of which entails direct contact with the public, an express authorisation is required before they can operate on a 5-day week basis.

In *Hungary* the half-holiday has to be granted to salaried employees on the Saturday.

In *Italy* the Decree on the "Fascist Saturday" provides that the normal office hours of civilian salaried employees and the hours of work of wage-earning employees of the State shall end on Saturday not later than 1 p.m. By agreement certain specified classes of establishments are exempt.

In *Latvia*, in order that the weekly rest of 42 hours may be granted, work in shops must cease two hours earlier than usual on Saturday.

In *Luxemburg* interpretative regulations explain that the 38 or 43-hour rest period which is granted to persons whose work is mainly intellectual in character is intended to provide for the half-holiday on Saturday.

In *New Zealand* the Shops and Offices Act provides for a Saturday half-holiday from noon in offices unless another day is specified by the competent authority at the request of the employers and workers concerned. In shops, however, the half-holiday may be taken on another day of the week. Further, the Industrial Conciliation and Arbitration Amendment Act, 1936, requires the Court of Arbitration to endeavour to fix the daily working hours so that no part of the weekly work period falls on a Saturday. While the Court has not found it practicable to make such an arrangement for retail trade and certain other activities, it has nevertheless issued awards providing for a consecutive rest of two days each week in a number of commercial establishments, such as insurance companies, banks, etc. These cases are examined in the next chapter.

In the *Union of South Africa* regulations relating to shops in Natal provide for a half-holiday on Saturday. In the Cape Province the half-holiday is provided for on a Saturday in specified localities but by agreement between the parties the Administrator may fix another day.

In *Turkey* and in *Uruguay* the weekly rest must include Saturday afternoon from 1 p.m. or 12.30 p.m. respectively.

It should be added that the hours of work regulations of a large number of countries provide for the possibility of distributing weekly hours of work over the different days of the week in such a manner as to grant a half-day of rest on one working day. This possibility is fully made use of in certain countries, the weekly half-holiday usually being contiguous to the rest day ¹.

§ 3. — Weekly Half-Holidays not Contiguous to the Rest Day

In certain countries there are regulations providing for a weekly half-holiday without any requirement that this must

¹ Particulars of the regulations on this subject are to be found in the report on the Generalisation of the Reduction of Hours of Work (Part I. Industry, Commerce and Offices) submitted to the 24th Session of the International Labour Conference in 1938, p. 170 *et seq.*

be taken on the day preceding or following the weekly rest day. The half-holiday may be taken on the Saturday, but this is not specifically provided for. The day is very often determined by agreement or by the action of a local or other competent authority.

Such provisions exist in *Australia*; under the Shops Acts in South Australia and Western Australia and under some awards and agreements covering commercial establishments in Queensland, in New South Wales whenever the more usual Saturday half-holiday is not granted, and in Tasmania as regards the shops exempted from the half or whole holiday on Saturday.

Similar provisions also exist in *Great Britain* under the Shops Acts; in *Ireland* for shop assistants; in the *Netherlands*; in *New Zealand* as regards shops; in the *Union of South Africa*, in particular in the Cape Province by virtue of agreements and in the Orange Free State in virtue of regulations.

§ 4. — Influence of Closing Regulations on Weekly Rest

The preceding sections of this chapter only give the minimum period of rest as it results in the regulations dealing specifically with this rest. It is, of course, obvious that, in the case of persons employed in most classes of establishments, a legal regulation requiring a weekly rest of at least 24 hours usually amounts in practice to a considerably longer period of rest. Most commercial establishments other than shops close, at the latest, at 6 p.m. on a Saturday or the day preceding the usual day of rest and do not usually open before 8 a.m. on Monday. This represents a rest period of 38 hours. Even in the case of shops or other establishments which may, in many countries, remain open until 8 p.m. or even exceptionally until 10 p.m. on Saturdays, the weekly rest is seldom less than 34 or 36 hours. It will thus be apparent that the regulations determining the hours of closing of commercial establishments in general or of shops in particular have an important bearing on the minimum length of the weekly rest.

CHAPTER IV

SPECIAL SYSTEMS OF WEEKLY REST

No country with regulations on the weekly rest has considered it sufficient to establish 'merely a general system' as described in the previous chapter. Since certain establishments have to be kept running on the general rest day and have to have regular recourse to the employment of certain classes of staff, special weekly rest systems have had to be introduced. In some cases they involve a reduction or suspension of the weekly rest but more often the rest is granted on some day other than the general rest day. In the latter case the periodical rest may be granted to the workers in rotation. It may also be shifted by a full day or half a day as compared with the general rest day; or Sunday work may give rise to a compensatory rest within a specified period, usually the week following the Sunday on which the work is done. Another possibility, which is only rarely employed, is to grant cash compensation for *regular* Sunday work.

In practice the national regulations often combine these various forms of organising the compensatory rest, and a systematic description of the arrangements presents certain difficulties. However this may be, the organisation of compensation is the kernel of every special system. In contrast to exceptions allowed for extraordinary circumstances (which are examined in the next chapter), the special systems are characterised by their regularity. They constitute the normal rest systems for certain classes of workers.

The main aspects of these systems relate to the coincidence of the periodical rest with the general rest day, the intervals between compensatory rest days, and the length of the rest. In this chapter the term "general rest day" is often replaced by that of "Sunday", since in practice all the special systems analysed here are an adjustment of the Sunday rest to the necessities of the life of the community.

The special systems for certain classes of establishments or activities, for certain localities or regions, and for certain classes of workers are considered in turn below, concluding with the special systems introduced for religious reasons.

In some countries there are also special systems for activities which cannot be interrupted on Sunday owing to the nature of the work or to the risk of deterioration of certain products or materials. Such an arrangement may apply to activities connected with the trade in foodstuffs and other prime necessities, to work in hospitals and chemists' shops, and to the working of public services such as postal, telegraph and telephone services. All these kinds of work are covered by the systems analysed in the various sections of this chapter and more particularly in Part A (special classes of establishments and activities).

A. — SYSTEMS APPLICABLE TO CERTAIN CLASSES OF ESTABLISHMENTS OR ACTIVITIES

Most of the regulations contain special provisions concerning specified classes of establishments or activities. They relate on the one hand to various kinds of commercial establishments and on the other to a large number of highly varied establishments and activities which all, however, meet needs that have to be satisfied on Sunday as much as on working days.

The kinds of establishment and activity exempted from the strict application of the weekly rest vary considerably from one country to another and are constantly changing. Thus, in Great Britain, the Sunday observance regulations involve the suspension of certain activities which are allowed in other countries (e.g. theatres). Further, there are constant changes in the lists of products that can be sold on Sunday. For example, owing to the growth of motor traffic the sale of petrol to motorists is at present authorised in most countries on every day of the week.

An account is given below of the special systems introduced for the following establishments and activities: establishments engaged in wholesale trade; establishments engaged in retail trade; chemists' shops; money-changing offices and travel agencies; hotels, cafés and restaurants; entertainment undertakings; hospitals and similar establishments; postal and telecommunication services; newspaper undertakings; and miscel-

laneous undertakings such as hairdressers' establishments and bath establishments.

§ 1. — Establishments Engaged in Wholesale Trade

Establishments engaged in wholesale trade are, as a rule, not exempted from the usual regulations relating to the weekly day of rest. In the case of establishments handling certain products, particularly those of a perishable nature, however, some countries have found it desirable to allow exceptions to the prohibition to employ assistants on Sundays.

CLASSES OF ESTABLISHMENTS AND ACTIVITIES COVERED

Provisions specifically relating to wholesale trade exist in *Argentina*, *Belgium*, *France*, *Germany*, *Japan* and *Uruguay*, as regards the weekly rest day, and in *Argentina* as regards the weekly half-holiday.

In *Argentina*, the regulations apply only to flour mills. In *Bulgaria*, they apply to trade in poultry, vegetables and tobacco, in *France* to the Paris food markets, in *Germany* to the wholesale sale and distribution of beer and mineral waters, to the wholesale despatch of newspapers and to the sale by wholesale of flowers, milk and cream, and in *Italy* to wholesale trade in perishable foodstuffs. In *Japan*, the Shops Act applies both to wholesale and retail trade. In *Uruguay*, special provisions apply to the import, export and wholesale movement of any goods. The provisions relating to the weekly half-holiday in *Argentina* cover wholesale co-operative stores.

WORK DURING THE USUAL WEEKLY REST PERIOD

Work is permitted on Sunday as on any other day in *France*, *Bulgaria*, *Italy* and *Uruguay* in the classes of activity covered.

Work is permitted only on a part of Sunday in *Argentina* and in *Germany*. In *Argentina*, work is permitted in flour mills until 6 a.m. on Sunday. The wholesale co-operative societies may work on Saturday afternoon. In *Germany*, work in the categories of employment mentioned above may be allowed by the local authority, usually for periods varying from two to five hours a day with a maximum of eight hours a day.

The number of Sundays on which such work may be carried out is limited only in *Germany* by a provision that, on the Sunday following that on which work was carried out, a rest of 18 hours must be granted and that, on every third week, a weekly rest of 36 hours must be granted including Sunday. A compensatory rest on another day of the week may be granted in cases of exceptionally intense week-end business.

COMPENSATORY SYSTEM

In all the cases mentioned above equivalent time off is given.

§ 2. — Establishments Engaged in Retail Trade

In practically all countries, special provisions exist enabling certain classes of shops to remain open or to employ assistants on Sundays or the usual rest day. As a rule, no reasons are stated in the legislation, though in some countries the authorisations are granted in virtue of the provisions relating to the exceptions necessary for satisfying the needs of the public or required in the public interest.

The reasons for keeping shops open on Sundays are partly related to the perishable nature of the goods sold and partly to the desire of the public to be able to obtain fresh bread, milk, cream, fruit or flowers, as well as daily newspapers, on Sundays. In other cases, shops are kept open by custom for the convenience of the public. This applies, for instance, to the sale of tobacco, chocolate or confectionery. Another reason is that certain shops do a great part of their trade on the weekly rest day, when the customers are free to buy and are on a holiday. This applies particularly to the sale of confectionery, refreshments, post cards, souvenirs, etc. In other cases, the trade is of such a nature that it is required to be transacted at any time. This is the case of goods required in case of illness and of the sale of petrol, oil and accessories for use in connection with motor vehicles, bicycles or aircraft. The special case of chemists' shops or the sale of medicines and medical or surgical appliances is dealt with under a separate heading.

ESTABLISHMENTS OR ACTIVITIES COVERED

The legislation of the various countries differs greatly as regards the scope of the establishments which are allowed to

trade on the usual weekly rest day. The number of the different classes of shops which may remain open and the even greater variety of products the sale of which is permitted is such that it is not proposed here to cover in detail all the regulations. The object in this section is rather to indicate the countries in which exceptions may be granted in respect of all classes of shops or of shops selling foodstuffs and articles of prime necessity only, and then to indicate the classes of shops for which exceptions are to be found in a large number of countries and the classes of shops or products for which it has been found desirable to make special provisions in one or a few countries only.

Throughout this section, no distinction is made between the regulations which apply to particular classes of establishments and those which relate to the sale of particular classes of commodities, except in so far as either type of regulation has to make special provisions for the sale of commodities elsewhere than at a shop.

All Shops

The opening on Sunday of all shops selling at retail is or may be authorised in *Belgium*, *Italy* (certain rural districts), *Japan*, *Lithuania* (outside Kaunas), *Luxemburg*, *Norway*, *Peru* (certain localities) and *Yugoslavia* (certain rural districts).

In *Belgium*, the Act of 1905 provides that wage-earning and salaried employees in retail shops, other than those shops for which special provisions exist may be employed during certain hours on Sunday but that this authorisation may be withdrawn by Royal Order, as has been done in the case of such retail shops in Ghent, Liège, Antwerp and their respective urban districts.

In *Italy*, in the case of establishments engaged in retail trade, the prefect may authorise a special arrangement for weekly rest in districts where trade depends on the influx of the rural population on Sundays or on its being the custom of the population to make its purchases on that day.

In *Japan*, the Shops Act applies to all shops and the Department Stores Act only to department stores.

In *Lithuania*, shops selling foodstuffs throughout the country and shops selling other goods outside Kaunas are permitted to open during a limited period on Sunday.

In *Luxemburg*, a limited period of opening on Sunday is allowed in the case of all retail establishments.

In *Norway*, Sunday work is permitted for the performance of work in shops in general.

In *Peru*, work in shops may be excepted from the prohibition of Sunday work by means of an authorisation of the municipal council. In the case of the sale of foodstuffs and of certain articles of prime necessity, no such authorisation is required.

In *Yugoslavia*, commercial and handicraft establishments, in localities of less than 10,000 inhabitants, may remain open during certain hours on Sunday if in these localities a large number of persons come in from distant places.

It may be added here that in *Argentina* and in *Spain* special provisions apply to co-operative stores which sell to their members only and that in the *South African* province of Natal a special provision refers to "Indian shops" — i.e. shops run by an Indian and selling only Indian stores.

All Shops selling Foodstuffs at Retail

Apart from the special provisions mentioned above regarding the weekly rest of all shops selling at retail, other regulations apply to all shops selling foodstuffs at retail in *Belgium*, the *Dominican Republic*, *France*, *Italy*, *Spain*, *Uruguay* and *Yugoslavia*.

Specified Classes of Shops selling Foodstuffs at Retail

In a number of countries, there are regulations permitting the opening on Sunday, during the whole or part of the day, of certain specified classes of shops or permitting the sale of certain classes of commodities, or permitting persons to be employed in such shops or in connection with such sales.

Regulations of this nature exist in the great majority of countries as regards bakers' shops, confectioners' and 'pastry-cooks' shops, butchers' and pork butchers' shops, dairies, fishmongers' shops, and fruit and vegetable shops. In a number of countries also, shops selling poultry and eggs are included. Deliveries of the products sold in these shops, and in particular of bread, milk and meat, are usually permitted at the times at which sales are permitted.

In addition, certain regulations make specific reference to other categories of shops or products, such as the sale of groceries (e.g., *Cuba*, *Great Britain*, *Greece*), prepared foods (*Argentina*), newly cooked provisions or cooked or partly cooked tripe (*Great*

Britain), ice (e.g. Italy and the Union of South Africa), drinks (e.g., Belgium, France, Spain) and the sale or delivery of beer (Argentina). The countries mentioned in brackets do not constitute an exhaustive list but indicate countries in whose regulations the examples given above have been found.

Classes of Shops selling Goods other than Foodstuffs at Retail

Tobacconists' shops and flower shops (sometimes only those selling fresh and natural flowers) are permitted to remain open on Sundays for part of the day or during the whole day in the majority of countries.

Most countries also permit the sale of petrol and oil for use in connection with motor cars, motor cycles or aircraft, sometimes extending the exception to the sale of all accessories and supplies. These sales may in some countries (e.g. the Union of South Africa) only be made to travellers. In several countries, in particular in *Denmark*, *Great Britain* and the *Netherlands*, the sale to ships of coal, fuel oil, petrol and in general all supplies, is authorised on their arrival, or immediately before sailing, or during their stay in a port of call. This authorisation may also apply to fishing vessels; in *Great Britain* it is extended to apply to aircraft.

Among the types of retail establishments which in some countries may be open on Sunday, reference may be made to those selling newspapers and periodicals, sometimes only at newspaper kiosks or railway station bookstalls, those selling fuel at retail (e.g. Italy, Spain); those selling photographic supplies (e.g. Peru), postcards and souvenirs (e.g. Italy), antiques (e.g. Greece), and second-hand books (e.g. Rumania).

In addition, in a number of countries undertakers' establishments may carry on their business on a Sunday.

Sale by Retail of Goods Elsewhere than at a Shop

In those countries in which legislation is based on the prohibition of sales on a Sunday and not on the closing of a shop, it may be necessary to grant exceptions to enable certain transactions to take place elsewhere than at a shop. In no case do such regulations apply in more than a small number of countries. Thus there are provisions to be found in some countries enabling markets and fairs to be held on Sundays (e.g. Chile,

Denmark, Italy), or only cattle markets or agricultural produce markets (e.g. Colombia).

Some countries (e.g. Argentina, Uruguay), have specially provided for the holding on Sundays of auction sales, though in Argentina this is limited to immovable property or furniture, flowers and plants, and in Uruguay to rural properties, lands and farms.

Stalls selling small goods at fairs are exempted from Sunday trading restrictions in some countries (e.g. Uruguay), and in Great Britain, for instance, an exemption refers to retail trade carried on at an exhibition or show if a local authority certifies that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

The sale of newspapers in the street or in cafés is occasionally expressly authorised (Denmark, Finland, Spain, Sweden) and sales of food, flowers, beverages and small articles of various sorts are sometimes authorised when carried on in the open or on a small scale (e.g. Spain, Sweden).

The Shops (Sunday Trading Restriction) Act of *Great Britain* gives the most detailed list of cases in which the sale of particular products is permitted only in certain circumstances, usually at a place other than a shop. These include: the sale by a fisherman of freshly caught fish (including shell fish); the sale at a farm, small-holding, allotment or similar place of produce grown thereon; the sale of guide books, postcards, photographic reproductions, photographic films and plates and souvenirs at any gallery, museum, garden, park or ancient monument under the control of a public authority or university, or at any other gallery or museum or any place of natural beauty or historic interest, or any zoological, botanical, horticultural gardens or aquarium to the extent that the local authority is satisfied that such sale is desirable in the interests of the public; and in any passenger vessel; the sale of requisites for any game or sport at any place where that game or sport is played or carried on, and the carrying on of post office business in a shop.

Other examples of trade permitted on Sundays are the hiring of motor cycles and cycles (Argentina, Bulgaria) and the renting of chairs and decorations (Argentina).

WORK DURING THE USUAL WEEKLY REST PERIOD

Work during the weekly rest period may be authorised without restriction as to time, in which case it may be performed

at the same hours as on any other full working day of the week, or it may be authorised only between specified hours of the day or during a limited number of hours. A further form of restriction consists of limiting the number of Sundays in any period of several weeks on which work may be performed. This latter form of limitation may of course be combined with either of the other two. The frequency and nature of these three types of regulations will be briefly examined below, in so far as they relate to systems which are not dependent on seasonal fluctuations.

Work at any Time During the Usual Weekly Rest Period

In a number of countries some or all of those establishments which are allowed to trade or to employ assistants on Sunday, as the case may be, are allowed to do so without any restrictions as regards hours of trading or of employment other than those applicable to other full working days. This is the case for all the shops for which special provisions exist concerning work on the usual weekly rest period in the following countries: *Australia* (Queensland and Victoria), *Colombia*, *Dominican Republic*, *Guatemala*, *Ireland*, *Italy*, *New Zealand*, *Paraguay*, *Peru* and *Uruguay*.

In certain of the above cases the possibility of work on Sundays as on every other weekday may be only an alternative to the weekly rest starting on Sunday afternoon, and either extending for 24 hours consecutively, or consisting of the Sunday afternoon and some other half day.

In other countries two systems coexist for different classes of establishments or of activities. In some cases, work may proceed on Sunday as on a full weekday, while for other classes of establishments the hours of trade or of employment are much more strictly limited. Permission to work on Sundays as on a full weekday is provided for in the regulations applicable to the classes of establishments or activities mentioned below, the detailed enumerations contained in national legislation being summarised:

In *Argentina* co-operative society shops, shops selling cheese, meats and prepared foods, bread, milk, fish, flowers and plants; auction sales; beer deliveries in summer, the hiring of bicycles, chairs and decorations.

In *Belgium* the retail sale of food or provisions, tobacco and flowers, and pastrycooks' shops. This list may be extended, by

decision of the Crown, to other classes of commercial undertakings in which either for reasons of public utility or other reasons work during the whole or part of Sunday is usually necessary.

In *Bulgaria* the sale of various types of foodstuffs other than meat, the sale of tobacco, the sale of petrol and oil, the renting of bicycles and the business of an undertaker.

In *Chile* the holding of markets and fairs, where customary, the sale of petrol and oil for cars, the sale of artificial flowers, newspapers, the business of an undertaker.

In *Denmark* the sale of newspapers, stationery, etc. in kiosks, of newspapers in street trading, the sale of chocolates, confectionery and similar goods in theatres, cinemas and similar establishments, the sale of confectionery, drinks, ice cream, fruit, tobacco, flowers, etc. at amusement parks and similar places, the supply of provisions to fishing boats and passing vessels.

In *Finland* the sale in kiosks or the open air of prepared foods, drinks, tobacco, newspapers, etc., the sale of petrol, oil and spare parts for motor cars; the sale to travellers of goods in stations, shops, etc.

In *France* shops selling drinks and natural flowers, the sale of petrol and oil for cars and undertakers' establishments.

In *Great Britain* the sale of intoxicating liquors; meals or refreshments; newly cooked provisions; table waters, sweets, chocolate; sugar, confectionery, etc.; flowers, fruit and vegetables; milk and cream; aircraft, motor and cycle supplies or accessories; tobacco and smokers' requisites; newspapers, periodicals and magazines; books and stationery at station bookstalls and books, postcards, etc. at sightseeing places; requisites for games or sports for any game or sport where that game or sport is carried on; and certain cases of the sale of products at places elsewhere than at a shop, to which reference has been made above.

In *Greece* the sale of bread; the sale of flowers, souvenirs, etc. in kiosks.

In *Hungary* confectioners' shops and the sale of newspapers and tobacco on stations; and the sale of petrol.

In *Portugal* the sale of various perishable foodstuffs; fresh flowers and water; tobacconists' shops and undertakers' establishments.

In *Rumania* the sale of newspapers and tobacco at kiosks, old books, and petrol for cars and aircraft, and undertakers' establishments. (These provisions apply to male assistants only.)

In *Spain* distributive co-operative stores which sell goods to their members only; shops selling bread, pastry, milk and cooling drinks; petrol for cars, etc., provided that the workers are not employed the whole day on two consecutive Sundays and have time for their religious duties, and that the number of persons employed is not greater than absolutely necessary; the sale of newspapers and sweets in kiosks; and undertakers' establishments.

In *Sweden* sales of food, beverages and flowers in the open air on a small scale, as well as to travellers at railway stations, vessels etc.; the sale of newspapers in the open air and in cafés and kiosks.

In the *Union of South Africa* the sale of refreshments, food, confectionery and ice; flowers and funeral decorations; newspapers; petrol and motor accessories and fodder to any *bona fide* traveller in the Cape Province; shops selling fresh milk, fruit, flowers, vegetables, bread and confectionery, meat, poultry, fish, tobacco, newspapers; and the sale of petrol, oil and motor accessories elsewhere than in towns; as well as undertakers' establishments in Natal; garages for the sale of motorists' requirements to enable vehicles to proceed only in the Orange Free State and in the Transvaal.

Work During Part of the Usual Weekly Rest Period only

In cases other than those mentioned above, work on Sundays is restricted to specified hours or the number of hours of trading or of employment is explicitly limited. An indication of these cases will be given below.

In *Argentina* shops selling meat, poultry, eggs, fruit and vegetables may remain open on Sunday till noon and beer deliveries are allowed up to this hour except in summer, when they are permitted all day. Shops selling confectionery, etc. and tobacco shops are allowed to remain open until 1 or 2 a.m. on Sunday, according to the season.

In *Belgium* retail shops other than those which may open on Sundays as on any other day and which have been referred to above are authorised to employ persons on Sundays from

8 a.m. to 12 noon, except in Ghent, Liège, Antwerp and their respective urban areas.

In *Bulgaria* butchers may remain open during two hours on Sunday evenings.

In *Chile* butchers may remain open from 5 a.m. to 1 p.m. Other shops, selling food, drink or articles of prime necessity, may remain open till 12.30 p.m.

In *Denmark* the sale of milk and bread is authorised from 6 a.m. till noon, and fresh flowers from 6 a.m. to 4 p.m.

In *Finland* milk shops, bakers' shops and flower shops may remain open for three hours on Sundays.

In *France* shops selling foodstuffs may remain open till noon.

In *Germany* the higher administrative authorities may permit Sunday work for activities for which it is necessary to satisfy the daily needs of the population, or cases in which the need for the goods is felt mainly on Sundays. General instructions have been issued to local authorities that Sunday work may be authorised for periods usually varying from two to five hours a day, but never exceeding eight hours a day in the case of retail trade in bread, confectionery, fresh fish, milk, and fruit, flowers and newspapers.

In *Great Britain* partial exemption orders may be issued by the local authority permitting sales up to 10 a.m. of bread and flour, confectionery, fish (including shellfish) and groceries, and other provisions commonly sold in grocers' shops.

In *Greece* grocers in towns of over 10,000 inhabitants may open from 10 a.m. to 2 p.m., in towns of 4,000 to 10,000 inhabitants, during five hours in the day, in towns under 4,000 inhabitants at any time after 8 or 9 a.m. and in rural areas at any time between 9 a.m. and 11 p.m. Shops selling vegetables and fruit may be open from three to five hours according to localities. Confectioners may open after 8 or 9 a.m. in towns, but must remain closed in the country. Shops selling antiques in certain towns may remain open from 8 a.m. to 1 p.m.

In *Hungary* bakers in any part of the country, butchers and pork butchers outside Budapest, and shops selling goods other than foodstuffs outside Budapest may remain open from two to three hours in the early morning on Sundays. Tobacco shops and newspaper kiosks may remain open from 6 or 7 a.m. to 7 or 8 p.m.

In *Lithuania* shops selling foodstuffs, drinks, fruit and tobacco must remain closed from 10 a.m. to 1 p.m. and there

is no provision preventing them from opening at any other hours between 6 a.m. and 8 p.m. On the other hand shops selling goods other than foodstuffs outside Kaunas may open only between 1 p.m. and 4 p.m., unless other hours are specified by the local authority.

In *Luxemburg* retail shops except those indicated below may open four hours on Sunday, between 8 a.m. and noon. Bakers and confectioners may, however, be open from 4 a.m. to noon, and caterers at most eight hours during the day. Newspapers may be sold at the stations from 7 a.m. to 7 p.m.

In the *Netherlands* the sale of milk, milk products and ice is permitted from 8 a.m. to noon; the sale of bread, confectionery, chocolate, fish and fruit for not more than six consecutive hours; and tobacco for not more than four consecutive hours between 8 a.m. and 8 p.m.

In *Poland* the hours of opening for confectioners, pastrycook shops, wine shops, mead shops, etc. are to be fixed by the local authority. Dairies and florists' establishments may remain open for not more than 3 hours and not after 10 a.m.

In *Portugal* bakers may remain open until 11 a.m., or such other hour as may be fixed by the local authority.

In *Rumania* butchers and pork butchers, milk shops, bakers, confectioners, fishmongers, fruit and poultry shops, may remain open until 10 a.m. Male assistants only may be employed.

In *Spain* establishments for the retail sale of goods other than food, drink and fuel may open for four hours on Sunday, mainly in the morning. The same applies to establishments belonging to a concessionary company for the sale of tobacco and stamped paper where there is only one shop in the locality.

In *Sweden* shops dealing in dairy products, bread, fresh fruit and flowers, etc. may remain open from 7 to 10 a.m., and permission may also be given to them to open for two hours during the afternoon.

In *Switzerland* dairies employing not more than four persons must close after 1 p.m. Dairies employing a larger number of persons must have a rotation system.

In the *Union of South Africa*, in the Cape Province bakers may be open before 9 a.m. and dairymen and fishmongers before 9 a.m. and after 4 p.m. In Natal Indian shops selling Indian stores may be open up to 9 a.m. In the Orange Free State, butchers, bakers and fishmongers may be open till 9 a.m. In the *Transvaal* shops selling sweets, confectionery, fruit,

flowers and tobacco may be open from 6 a.m. to 1.30 p.m.; dairies from 6 a.m. to 9 a.m. and from 4 p.m. to 7 p.m.; and bakers, butchers, fishmongers, icemongers and poulterers from 6 a.m. to 9 a.m., if the administrator has specially authorised this in places where he is satisfied that the climatic conditions are such as to require such an authorisation to be granted.

In *Yugoslavia* shops selling foodstuffs and flower shops may open till noon. In localities with less than 10,000 inhabitants where large numbers of persons come in from distant places, commercial and handicraft establishments may remain open during not more than two hours on Sunday morning.

Work on a Limited Number of Sundays

The regulations in a number of countries specify that an assistant may be employed in retail trade on not more than a stated number of Sundays in any given period. The object of such regulations is to enable the assistant to take his weekly rest on the same day as most other people on at least a certain number of occasions and to enable him to fulfil his religious duties.

Provisions based on this principle exist in *Germany, Great Britain, Greece, Norway, Rumania* and *Switzerland*.

In *Germany* when the local authority authorises work for a limited number of hours on any Sunday it must be provided that on the following Sunday the assistant shall have a rest of 18 consecutive hours and on the next week-end thereafter a rest of 36 consecutive hours including Sunday.

In *Great Britain* it is provided that assistants must not be employed for more than four hours on a Sunday on more than three Sundays in any month.

In *Greece*, in the case of certain shops which may open all day on Sunday, it is provided that the weekly rest must be given one Sunday in two.

In *Norway* work in shops is only permitted on one Sunday in two.

In *Rumania* assistants who are employed on Sundays must have one free Sunday a month.

In *Switzerland* special provisions exist in relation to dairies and persons employed in newspaper kiosks. In the case of dairies employing five to nine persons the full day of rest which must be granted once a month must fall on a Sunday once in

two months. In the case of persons employed in newspaper kiosks where only one person is employed a half-day of rest must fall on a Sunday or public holiday at least four times in every half year. In kiosks employing two persons the full day of rest must fall on a Sunday four times in every half year. If more than two persons are employed the coincidence must occur six times in every half year, though this may be reduced to four if double time off is granted in cases in which the employee has less than six Sundays free in the half year.

COMPENSATORY SYSTEM

In most of the cases in which shop assistants are employed on a Sunday or during the usual weekly rest period the regulations provide for a compensatory rest on some other day.

This compensatory rest may be given in the week in which Sunday work was performed unless it has already been granted in anticipation during the preceding week; or the weekly rest may be calculated over a longer period so that the number of whole or half holidays to be given in a certain period alone is specified. The cases in which these various forms of compensation arise are indicated below, together with those cases of Sunday work for which the regulations on weekly rest do not require any compensation to be granted.

Compensatory Rest During the Same or the Preceding Week

This system is the most usual one. To the cases in which it is explicitly provided for and which are mentioned below there should be added those countries whose legislation provides for the granting of one day's rest in seven (or, as in the U.S.S.R., one day in six or five) without specifying the day of the week on which the rest is to be taken. This system of granting compensatory rest in the same or the preceding week may take a number of different forms. It may apply to the individual shop assistant who obtains his weekly rest by rotation while the establishment may remain open seven days a week. In other cases the establishment may be required to close on another day a week. In yet other cases the weekly rest may be taken as regards a half-day on Sunday and a half-day on another day, though this case is seldom found. The provisions relating to the

frequency of the coincidence on weekly rest with Sunday have already been examined above.

The system of compensatory time off, as indicated above, for work performed on Sundays is the general rule in the following countries: *Argentina, Australia (Victoria), Bulgaria, Chile, Colombia, Finland, France, Germany, Great Britain, Ireland, Italy, Luxemburg, the Netherlands, Norway, Paraguay, Peru, Rumania, Spain, Sweden, Union of South Africa (Transvaal), Uruguay, Yugoslavia.*

In addition, in *Greece, Hungary and Poland*, the system of granting compensatory rest applies only to certain classes of establishments. In *Greece* it applies in the case of grocers, fruit and vegetable shops in towns of over 4,000 inhabitants, to shops selling colonial goods and to flower shops. In *Hungary* it applies to butchers and, as regards work on Sunday afternoon, to confectioners' shops. In *Poland* a free day is given to persons employed in dairies or flower shops even though they cannot be employed for more than three hours on Sunday morning nor beyond 10 a.m.

In a few of the countries in which compensatory rest is granted during the same or the previous week steps are taken to prevent the weekly rest being unduly broken up or to ensure that the compensatory rest should be granted at a time at which the employee can derive full benefit from it.

For instance, in *Argentina* it is provided in most cases that if work is performed both on Saturday afternoon and on Sunday the rest period of 35 hours must be uninterrupted. In *Bulgaria* also the 36 consecutive hours are required and in *Yugoslavia* in the case of shops selling foodstuffs or flowers the 36 hours' rest provided by law must be consecutive and must start from Sunday at noon.

In the *Netherlands* a special type of provision exists to the effect that where any person works more than four consecutive hours on Sunday the weekly rest, which is usually of 32 hours at least, may be interrupted during six consecutive hours at most provided that the total rest amounts to at least 36 hours, or alternatively that the total rest should amount to 32 hours at least, and that the worker should have in addition thereto a half-day off as from 1 p.m. during the week.

Other measures tend to provide that the compensatory rest should take the form of a half or a whole day and not only of the number of hours corresponding to those worked on Sunday.

Thus, in *Great Britain* if a person is employed in a shop for more than four hours on any Sunday he must receive a full day off (in addition to the half-holiday which is granted by law) and if a person is so employed for not more than four hours he must receive a half-day off starting from 1 p.m. In *Ireland* the same provision exists except that no compensation is provided in the weekly rest provisions for work of less than two hours on Sunday. In *Luxemburg* if any assistant is employed for more than three hours on Sunday (the legal limit being four hours) he must be given a full day or two half-days off in every fortnight.

Compensatory Rest Calculated over a Longer Period

The only cases in which compensatory rest is not entirely granted in the week in which Sunday work is performed or in the preceding week are to be found in *Belgium* and *Germany*.

In *Belgium* a rest of two half-days or one day must be granted in every fortnight and in addition 13 whole holidays must be granted in the year. There is therefore partial compensation for work performed on Sundays and part of this is accumulated.

In *Germany* where Sunday work is authorised for periods usually ranging from two to five hours on Sunday and in no case exceeding 8 hours it is provided that the rest on the next Sunday must be of 18 consecutive hours and that 36 consecutive hours including Sunday must be given on the third week.

No Compensation

In a few cases the regulations on the weekly rest permit assistants to be employed on Sundays without providing for any compensatory rest at all. In such cases the employees may work on weekdays subject to such regulations as exist and may also work for the whole or part of the Sunday.

In certain of these cases however some compensation is likely to arise out of the interaction of the legislation on hours of work and of that on weekly rest. For instance in cases in which an employee is subject to legislation limiting his weekly hours of work any work on Sunday will either be deemed to be part of his normal weekly hours of work, in which case compensatory time off will have to be granted during the week, or else it will be deemed to be overtime, in which case the provi-

sions of the hours of work legislation requiring payment for overtime at higher rates will come into play. The legislation on hours of work has already been analysed in the Report on the Generalisation of the Reduction of Hours of Work in Industry, Commerce and Offices, submitted to the International Labour Conference in 1938, and full particulars cannot be reproduced here. An indication will however be given of whether the workers who are allowed to be employed on Sundays without any compensatory rest being provided for under the weekly rest legislation are or are not covered by the regulations on hours of work.

No compensation is laid down in the regulations on weekly rest in the following cases:

In *Denmark* and *Lithuania* the legislation on weekly rest does not provide for compensation in the cases in which shops are authorised to open on Sundays. The workers concerned are not covered by hours of work regulations.

In *Chile*, *New Zealand* and the *Union of South Africa* (Cape Province, Natal and Orange Free State) no compensation exists for the persons engaged in the sales authorised on Sundays but such persons are subject to a limitation of their weekly hours of work.

In *Greece*, while a system of compensation is a generally recognised principle, it is not applied in a few cases such as that of certain establishments open for three hours or less on Sundays, butchers outside Athens, bakers (who must however enjoy a rest of 14 consecutive hours between Saturday 4 p.m. and Monday 4 p.m.), tobacco shops, shops selling antiques, etc. The weekly hours of work of these persons are not limited by law.

3. — Chemists' Shops

In nearly all countries chemists' shops are allowed to trade on Sunday or on the customary weekly rest day. This possibility is granted owing to the obvious necessity of enabling sick people to obtain any medicaments they may require.

The possibility of remaining open on Sunday may result from the exclusion of chemists' shops from the scope of the regulations on weekly rest or it may result from exceptions permitting work of necessity or urgent work to be carried out on Sundays. These cases are referred to in other chapters.

The opening of chemists' shops or the employment of assistants therein is, however, more often covered by special provisions of the regulations on weekly rest or shop closing and in some countries is even the subject of separate decrees. It is these special provisions which are analysed below.

ESTABLISHMENTS AND ACTIVITIES COVERED

The definitions given vary but slightly. Reference is usually made to chemists' shops, pharmacies, druggists' establishments and shops for the sale of medicines and medical and surgical appliances.

In some countries the sale of such products is only permitted when the goods are required in case of illness or of urgency.

In *Cuba*, *Hungary*, *Paraguay*, *Portugal* and *Uruguay* the provisions permitting such chemists' shops to open on Sunday apply only to those which are required by law to remain open in virtue of a rota determining the establishments which shall be at the disposal of the public on Sundays.

Other limitations also apply in *Chile* and in *Great Britain*. In *Chile* the opening on Sunday is permitted only in the case of pharmacies on duty in rotation, the sole pharmacy in a particular locality and the Poor Law pharmacy in each town or village. In *Great Britain*, while the usual system of compensation for work performed on Sundays applies to persons engaged in the sale of medicines and medical and surgical appliances, a different system as regards compensation is provided for registered pharmacists within the meaning of the Pharmacy and Poisons Act of 1933 employed in connection with the sale or supply of medicines or medical and surgical appliances in any premises required to be kept open on Sunday for the serving of customers in pursuance of a contract between the occupier of the premises and an insurance committee within the meaning of the National Health Insurance Act of 1936.

WORK DURING THE USUAL WEEKLY REST PERIOD

In the same way as in the case of other establishments engaged in retail trade, chemists' shops may be allowed to remain open on Sundays or on the usual rest day as on any other day or they may be permitted to open only during restricted hours on Sunday or they may open only on a limited number of Sundays in any given period.

Work is permitted during the rest period as on other days in virtue of provisions explicitly referring to chemists' shops or to retail trade in the following countries: *Argentina, Australia, Belgium, Brazil, Bulgaria, Chile, Colombia, Denmark, Dominican Republic, Great Britain, Hungary, Italy, Luxemburg, New Zealand, Norway, Peru, Poland, Sweden, the Union of South Africa*, and several States of the *United States of America*.

In *Spain* in localities where there is only one chemist's shop it may open for not more than four hours on Sunday.

In some countries the number of Sundays on which an assistant may be employed in a chemist's shop is limited by the adoption of a rota, according to which chemists' shops take it in turn to remain open. In view of the fact that it is desirable that in each locality or part of a large locality there should always be a chemist at the disposal of the public in case of illness or accident, regulations may require a certain number to remain open. Such rota systems are explicitly referred to in the legislation of *Cuba, Hungary, Paraguay, Portugal* and *Uruguay*, but similar arrangements exist in virtue of local regulations or agreements among the chemists in many other countries.

Apart from the case of opening on Sunday by rota special provisions limiting the number of Sundays on which a chemist's shop may remain open exist in *Great Britain, the Netherlands, Norway* and *Spain*. In *Great Britain* an assistant may not be employed for the sale of medicines or medical or surgical appliances for more than four hours on a Sunday on more than three Sundays in any month. A pharmacist working for a health insurance committee may grant his assistants a different system of compensatory rest not requiring a half or whole holiday if he does not employ an assistant on more than two consecutive Sundays and then for not more than two hours. In the *Netherlands* it is specified that any establishment may not open on more than 26 Sundays in the year and in *Norway* on more than one Sunday in two. In *Spain* it is specified that where there are several chemists' shops in a locality, half of them must close on each Sunday.

COMPENSATORY SYSTEM

The most usual system of compensation is to grant the assistant a compensatory rest at least equivalent to the time worked on Sunday in the course of the week on which Sunday

work is performed or during the previous week. This is specifically provided for in the regulations in force in *Argentina, Brazil, Bulgaria, Chile, Colombia, the Dominican Republic, Great Britain, Italy, the Netherlands, Norway, Paraguay, Peru, Poland, Portugal, Spain, Sweden* and several States of the *United States of America*.

In *Great Britain* the time given as compensatory rest is carefully defined. If a person is employed for more than four hours on a Sunday he must receive a whole holiday that week or the preceding week. If he is employed for not more than four hours he must receive a half-holiday. In the case, however, of registered pharmacists working on the basis of a contract under the National Health Insurance Act, if the assistant is not employed for more than two hours on a Sunday he must not on a weekday during the same week or the previous week be employed before half past 10 in the morning or after 6 in the afternoon.

In *Australia* (Queensland) and in *Luxemburg* a partial compensation only is granted. In Queensland a half day's rest a week only need be given and in *Luxemburg* a full day or two half days must be granted in every fortnight.

In *Estonia* and in *Hungary* special systems exist. In *Estonia* if a rota system is established two days of work of 11½ hours a day must be followed by one day's rest. In *Hungary* an assistant chemist employed on Sunday duty must be given a compensatory rest equal to half the time spent on Sunday duty, the other half being regarded as overtime and paid for at overtime rates.

Compensatory rest may be granted after a longer period only in *Belgium*, where chemists' assistants may be employed for 6½ days in every 7 or 13 days in every 14 but must receive, in addition to the half-holiday a week or whole holiday a fortnight, 13 whole holidays in the course of every year. This amounts to a partial compensation.

No compensatory rest would appear to be granted in virtue of the regulations relating to weekly rest in *Australia* (New South Wales, South Australia, Tasmania, Victoria, Western Australia), *Cuba* (for pharmacies whose turn it is to be on duty), *Denmark, New Zealand, the Union of South Africa* and *Uruguay*.

§ 4. — Money-changing Offices and Travel Agencies

Most office employees receive a regular weekly rest and it is only for certain special classes of establishments that it is found necessary to introduce a special system to enable regular work to be done on Sunday. The information given below relates to the systems adopted for money-changing offices and travel agencies.

MONEY-CHANGING OFFICES AND PUBLIC FUNDS

Very little information is available on the systems in force for banks, money-changing offices, public funds, and similar establishments working on Sundays.

In *Finland* savings banks, as also friendly societies, sickness funds, pension funds, funeral benefit funds, unemployment funds and other similar funds have an unrestricted right to stay open on Sunday. Employees who are regularly employed on Sunday are granted an uninterrupted rest period, equivalent to the Sunday rest spent in work, at another time during the week.

In *Uruguay* the staff of money-changing offices who have worked on Sunday are entitled to a rest at another time comprising one and a half working days.

TRAVEL AND TOURIST AGENCIES, ETC.

In travel and tourist agencies open on Sunday the weekly rest is granted in rotation in *Bulgaria* and *Italy*.

In the *Netherlands* persons who work on Sunday for more than 4 hours are entitled to an uninterrupted rest period of not less than 36 hours during the 72 hours preceding or following the Sunday worked.

The clerical staff of shipping companies in *New Zealand* receive the following compensation for work on Saturday afternoon or Sunday, under an arbitration award: time off is granted at the rate of 1½ hours for each hour worked on such days and must be given within a calendar month; the compensatory time off may be added to the annual holiday if mutually agreed upon; failing these provisions being complied with, a minimum hourly payment is laid down.

In *Portugal* the employees of shipping agencies are entitled for any Sunday work to a day's rest within three days of the Sunday worked.

§ 5. — Hotels, Cafés and Restaurants

ESTABLISHMENTS AND ACTIVITIES COVERED

Among classes of establishments which are very widely empowered to work on Sunday, hotels, cafés, restaurants and other establishments of the kind occupy a prominent position. As was explained in Chapter II concerning scope, the national regulations cover various classes of establishments belonging to this group. Very often boarding houses and inns are classed with hotels. In many countries restaurants are held to cover also public houses, refreshment rooms, station refreshment rooms, people's kitchens, canteens, etc., while cafés include public houses, cabarets, tea rooms, pastrycooks' and confectioners' shops and so on. Finally, this group of establishments is sometimes held to cover the bars of hotels, clubs, billiard saloons and the like. The terminology used in the different countries varies widely, and it is only rarely possible to give an exact indication of the scope of the special provisions for this class of establishment.

In some of these establishments business is particularly brisk on Sunday, and where they are subject to regulations on conditions of work it seems to be the rule to grant the staff the weekly rest in rotation. In many cases, however, the staff have no statutory right to a weekly rest and their conditions of employment are in this respect often similar to those of domestic staff.

The conditions in which work is done on the general rest day and the compensatory rest system for persons doing such work will be discussed separately below, in so far as such systems are not seasonal.

WORK DURING THE USUAL WEEKLY REST PERIOD

In several countries it is provided that work shall be authorised only on a certain number of Sundays in the year or the month, this being the only restriction on Sunday work in this kind of establishment.

Such limitation may take the form of a general provision, to the effect for instance that the rest shall be granted on Sunday whenever possible (*Finland*), or more generally of the fixing of a minimum number of free Sundays.

The rest day may have to coincide with Sunday at least once every two weeks, as in *Greece*, or once every four weeks, as in *Germany* and *Great Britain*. In the *Netherlands* the weekly rest must be taken on a Sunday at least 17 times in the year. In *Switzerland* the weekly rest must coincide with Sunday not less than 4 times in the half-year, a provision that does not apply, however, to small restaurants, cafés and similar establishments where, in addition to the occupier of the undertaking, not more than 4 persons are employed.

In most countries, however, there is no statutory provision requiring the weekly rest to fall on a Sunday.

COMPENSATORY SYSTEM

The essential provisions of the regulations relate to the nature of the rest granted in compensation for work done during the usual weekly rest period. A distinction should be made here between systems providing for a regular weekly rest day and those fixing some other interval, either longer or shorter, between rest days.

Further, when the interval between rest days is a week, the rest day may be taken during the week following or preceding the Sunday or it may be shifted to some other part of the year. In the latter case the rest days are accumulated and take the form of annual leave compensating for the work done on Sundays in the course of the year.

Systems with an interval other than the week are exceptional. In certain cases compensation may take the form of cash remuneration in place of or in addition to the compensatory rest.

Compensatory Rest Granted Once a Week

This system is in force under most of the national regulations. In practice it involves the smallest difference from the general system of a periodical rest after six days of work.

System of Granting the Rest Day

The regulations may provide that a rest day shall be granted once a week, as is the case for instance in *Argentina, Australia* (Victoria), *Germany, Hungary, Italy, New Zealand* and *Peru*.

In other countries it is provided that if work is done on Sunday, a rest day must be granted during the week following or preceding the Sunday (*Colombia, Great Britain, Poland, Rumania* and *Uruguay*).

In *Portugal* the compensatory rest must be granted in the course of the three days following the Sunday worked.

Lastly, a certain number of countries have provided for the granting of the weekly rest in rotation without indicating the period within which the rest must be given. This is the case, for instance, in *Bulgaria*. In *France* and *Guatemala* the weekly rest may be granted on a day other than Sunday to the whole of the staff, or from mid-day on Sunday to mid-day on Monday, or on Sunday from 12 noon with a compensatory rest period of one day a fortnight in rotation, or in rotation to all or part of the staff.

Length of Compensatory Rest

The length of the compensatory rest is not always fixed in the national regulations, which sometimes prescribe a "rest day". In this case it must be assumed that a rest day of 24 hours is meant, but it may be supplemented by the nightly rest in conjunction with the Sunday (*Bulgaria, Poland, Portugal*).

Where the length of the compensatory rest is prescribed, it is often fixed at 24 consecutive hours (*Dominican Republic, France, Greece, Guatemala, Peru, Rumania*). It is sometimes stated that the rest shall consist of 24 consecutive hours between midnight on one day and midnight on the next (*Colombia* and *Italy*).

Some countries require compensatory rest of 24 hours to be added to the nightly rest (*Germany, Hungary*).

In yet other countries the rest is over one day in length. The regulations may fix a compensatory rest period of over 24 hours, as in *Argentina* (Buenos Aires), where it is fixed at 35 consecutive hours, and in the *Netherlands*, where it is 36 hours, or they may require the rest period to consist of a day and a half (*Uruguay*).

This latter system is most usual, however, when the normal weekly rest system includes a half-holiday, whether or not taken in conjunction with the weekly rest day. Thus in *Australia* (Queensland) the employees of restaurants and refreshment shops, except employees in hotel bars and the bars of registered clubs, and in *New Zealand* the employees of hotels, tea rooms and restaurants are entitled to one and a half days' compensatory rest. The same result is obtained in *Australia* (New South Wales) by the provision of an arbitration award fixing the working week at $5\frac{1}{2}$ days.

Lastly, in certain cases the length of the compensatory rest depends on the duration of the Sunday work. Such a system is in operation in *Great Britain* for persons employed on premises for the sale of refreshments. If such persons are employed for more than four hours on any Sunday, they must receive a whole holiday on a day other than that of the statutory half-holiday; if they are not employed for more than four hours, the compensatory rest is only half a day. The position is the same in *Venezuela* (a whole rest day for over four hours of work, half a day for four hours or less).

Compensatory Rest Calculated Over a Longer Period

In certain countries the law authorises the compensatory rest to be calculated over a period of some length. In *Bulgaria*, in cafés situated in localities where markets are held on the occasion of religious festivals or authorised fairs and at markets held on Sunday or on a public holiday after divine service, the Sunday or holiday rest must be replaced by 52 days' leave in the year, divided in such a way that the staff receive one day's rest a week.

In *Finland* two days of rest must be granted in every fortnight.

In *Great Britain* the Shops Act provides for an alternative system to that considered above. It involves the granting of 32 whole holidays on a weekday in place of the statutory half-holidays. At least two such whole holidays must be given within the currency of each month, and the 32 days must comprise a holiday on full pay of not less than six consecutive days. In addition to these 32 days, the employees are entitled to 26 whole holidays on Sunday in every year,

so distributed that at least one out of every three consecutive Sundays is a whole holiday. Two half-holidays on a weekday are deemed to be equivalent to one whole holiday on a weekday.

Systems Involving Intervals Other than a Week between Rest Days

In some countries the rest day is not weekly but is given at intervals of more than a week.

In *Belgium* the periodical rest is granted by the fortnight (one rest-day every two weeks or half a day every week).

In *Greece* workers in pastrycooks' shops are entitled to 12 hours' rest once a week, which must be supplemented in alternate weeks by a rest of 24 consecutive hours coinciding with Sunday.

In *Switzerland* small establishments employing not more than four persons in addition to the occupier of the undertaking may grant their staff a rest period consisting of three half-days and one full day of 24 consecutive hours in every period of four weeks.

§ 6. — Entertainment Undertakings

ESTABLISHMENTS AND ACTIVITIES COVERED

Some countries have introduced special systems for entertainment and similar undertakings, which may apply to all such undertakings or to certain classes of them. As a rule a general formula is used to cover all kinds of establishments for public amusement, entertainment, recreation, etc. In some cases, however, special systems have been introduced only for specified classes of establishments, while other classes remain subject to the general legislation concerning the weekly rest. This is the case, for example, in *Great Britain*, where an Act of 1780 prohibits the opening of any premises for public entertainment or amusement on a Sunday; an Act of 1932 introduced an exception to this prohibition for certain cinematograph establishments. In various other countries, on the contrary, entertainment undertakings are entirely excluded from the weekly rest regulation, e.g. in *Germany* and *Portugal*. Lastly, clubs and recreation centres (*Argentina*), sports undertakings (*Greece*) and gaming rooms (*Uruguay*) are sometimes treated on the same footing as entertainment undertakings or come under the same regulations.

COMPENSATORY SYSTEM

When the staff of entertainment undertakings are authorised to work on Sunday — and this is the case in the great majority of countries — the regulations do not provide for any restrictions on their Sunday work, as sometimes happens for Sunday work in commerce or in hotels, cafés and restaurants.

In some countries the staff are entitled to one day's rest each week. In *Belgium*, however, the system is that of 13 working days out of 14, or $6\frac{1}{2}$ days out of 7; the whole day or two half-days devoted to the rest need not necessarily coincide with Sunday.

Rest Granted Weekly

Several regulations require one day of rest to be given in each week although that day need not coincide with Sunday. This is the case, for example, for the staff of theatres and cinemas in *Argentina* (Buenos Aires), for actors and other stage employees in *Australia* (Tasmania), and the whole staff of entertainment undertakings in *Bulgaria*, the *Dominican Republic*, *Great Britain* (cinemas), *Greece*, *Italy*, *Poland*, *Rumania* and the *United States* (New York City).

In *Switzerland* the operating staff in cinemas are entitled to a weekly rest which must coincide with Sunday not less than twelve times in the year.

In *Colombia*, *France* and *Guatemala* the compensatory rest may be granted in one of four different ways: (a) on a day other than Sunday to the whole of the staff; (b) from mid-day on Sunday to mid-day on Monday; (c) on Sunday from 12 noon, with a compensatory rest of one day a fortnight in rotation; (d) in rotation to all or part of the staff.

In the *U.S.S.R.* entertainment undertakings and undertakings in the cinematograph industry work on the system of the unbroken week, consisting of 4 days' work and 1 day's rest. In circuses and music halls one day's rest is given after every five days' work.

Compensatory Rest Calculated over a Longer Period

This system is comparatively rare. In *New Zealand*, for touring stage employees, the weekly half-days may be accumulated and taken when convenient to the employer.

In the U.S.S.R. actors may in case of need accumulate their rest days during not more than 4 weeks. They must be given their rest days not later than after 8 days of work, whatever the system under which they work (five-day week or six-day week). Circus and music-hall artists responsible for the principal items of the programme may also, in certain conditions, accumulate their rest days, which must be granted not later than after 20 days of work. Lastly, stage managers, operators, make-up staff and directors responsible for shooting films and cinema actors playing principal parts may accumulate their rest days, which must be granted not later than after 12 consecutive days of work (16 days in exceptional cases). Accumulation is authorised only if it is necessary to continue acting in the same set or to take outdoor shots in fine weather.

LENGTH OF REST PERIOD

As in the other branches of activity considered above, the length of the rest period is rarely fixed precisely. Often the regulations prescribe one day a week without indicating how many hours are to be taken as one day. This is the case, for example, in *Belgium, Bulgaria, Great Britain, Greece, New Zealand and Poland*.

In some countries the rest is fixed at 24 hours, as in *Colombia, the Dominican Republic, France, Italy, Rumania, Switzerland, and the United States* (New York cinemas).

In *Argentina* the staff of theatres and cinemas in Buenos Aires are entitled to a rest of 34 consecutive hours reckoned from the end of the performance. For actors, however, this rest may be replaced by two rest periods of $17\frac{1}{2}$ hours each or of 24 and 11 hours respectively.

In *Greece*, if work on Sunday lasts for more than 3 hours, the worker is entitled to a whole holiday on the following Sunday or another day of the week, or he must be allowed free time for 6 consecutive hours on each of two days of the following week, this rest being taken during the usual working hours.

In the U.S.S.R. the rest is fixed at 35 hours for artistic, technical and manual staff and assistants taking part in performances, and at 39 hours for other staff.

Lastly the length of the compensatory rest is fixed at a day and a half in *Uruguay*.

OTHER FORMS OF COMPENSATION

Cash remuneration for Sunday work is exceptional in entertainment undertakings. Such a provision is to be found in *Australia* in a Federal award for actors, weekly employees being paid time-and-a-third and other employees double time for Sunday work.

In *New Zealand* stage employees are paid double ordinary rates for Sunday work and must be granted a weekly half-holiday in compensation. Musicians and operators in cinemas and theatres are paid double time for Sunday work.

§ 7. — Hospitals and Similar Establishments

ESTABLISHMENTS AND ACTIVITIES COVERED

The weekly rest systems for the staffs of hospitals and similar establishments also vary widely from country to country. As regards the determination of the classes of establishment covered, the regulations usually apply to all establishments for the care of the sick and infirm. In some cases they also cover asylums (*France*) or welfare institutions (*Finland*). In others they are restricted to private hospitals (*New Zealand, Switzerland*). In the *U.S.S.R.* the statutory regulations concerning hospitals also cover veterinary establishments. As regards the persons covered, these may be either the whole of the staff (exclusive of doctors and surgeons) or only the staff engaged on work closely related to the care of the sick (*Germany*), or even part of the latter staff, such as women nurses (arbitration awards in several *Australian States*).

WORK DURING THE USUAL REST PERIOD

Hospitals and similar establishments are to be distinguished from the other establishments considered in this chapter by the fact that some of the classes of staff employed there have to work without interruption day and night and throughout the week. For such staff, therefore, there must be a system of granting the weekly rest in rotation, no collective stoppage of work or limitation of Sunday work being possible as in the case of the regulations for commercial establishments or for hotels, cafés and restaurants.

COMPENSATORY SYSTEM

Rest Granted Weekly

In many countries the rest must be granted during each week, but there is no requirement that it should coincide with Sunday or any other general rest day. This is the position in *Australia* (New South Wales and Queensland) for hospital employees, *Bulgaria*, *Finland*, *Iran* and *'Iraq* (in virtue of arrangements between employees and management), *Italy*, *Poland* and the *U.S.S.R.*

In other countries the rest must be taken during the week preceding or following the Sunday on which the work is done. This is so for hospitals in *Argentina* (Buenos Aires), *Colombia*, *Portugal* (rest to be taken within three days following the Sunday) and *Rumania*.

In *Germany* (Berlin private hospitals) this is also the system, but the compensatory rest during the week may be replaced by a full holiday on the following Sunday together with a half-holiday in the course of the week.

In some countries there are special systems, although all are based on the principle of a periodical rest each week. Thus in *France* and *Guatemala* the management of the establishment may choose between four systems of granting the weekly rest: (a) on a day other than Sunday to the whole of the staff; (b) from mid-day on Sunday to mid-day on Monday; (c) on Sunday from 12 noon, with a compensatory rest of one day a fortnight in rotation; (d) in rotation to all or part of the staff.

In *Greece*, if work on Sunday lasts for more than 3 hours, the workers are entitled to a whole holiday on the following Sunday or on another day of the week, or else must be allowed free time for 6 consecutive hours on each of two days of the following week, this rest to be taken during normal working hours.

In *Switzerland* the rest must be granted to the staff each week. It need not fall on a Sunday provided that the staff are granted 8 days' holiday with pay in the course of the year, of which two days must coincide with Sunday or a recognised public holiday. Other methods of granting the weekly rest or its reduction are however allowed.

Weekly Rest Calculated over a Longer Period

This system is unusual in hospitals.

In *Australia* (New South Wales and Victoria) each nurse is entitled to one day off a week or two days off a fortnight. Each nurse on night staff must be allowed off duty one night each week, but by agreement with her employer the night off may be accumulated.

In the *Netherlands* a rest period of 36 hours must be allowed if it is taken once a week, and of 60 hours if it is granted only once a fortnight.

In *New Zealand* the staff of private hospitals are entitled to one day off duty each week or, if so agreed with the employer, to two consecutive days off duty in every fortnight.

LENGTH OF THE REST PERIOD

One Day or 24 Hours

As in other branches of activity, the length of the compensatory rest is often not indicated exactly. In some cases the regulations fix it at one day, which may be assumed to be 24 hours, but it is not stated whether the rest period includes the daily rests preceding and following the weekly rest. This is the position in various *Australian States*, *Germany* (Berlin private hospitals), *Greece*, *New Zealand*, *Poland* and *Portugal*.

In some of these countries, however, the length of the weekly rest may be determined indirectly by fixing the length of the working week.

In other cases the length of the rest is prescribed more exactly. A figure of 24 consecutive hours is quite usual (*Colombia*, *France*, *Guatemala*, *Italy*, *Rumania* and *Switzerland*).

Longer Periods

The weekly rest is fixed at 35 consecutive hours in *Argentina* (Buenos Aires hospitals). If the staff is employed on Saturday afternoon and the whole of Sunday, the rest must begin at 1 p.m. on one day and continue until midnight of the next day.

Figures of 36 hours are prescribed in *Bulgaria* and the *Netherlands*. In the latter country the rest period is 60 hours if it is granted only once a fortnight.

In the *U.S.S.R.* the rest period is fixed at 42 hours.

Length of Rest Period Proportionate to Hours Worked

In *Finland* the compensatory rest must be equivalent to the Sunday rest spent in work. This is also the case in *Argentina*, in the Buenos Aires hospitals, when only part of Saturday afternoon or Sunday is worked. In that case the compensatory rest is equivalent to the hours worked and is reckoned from 1 p.m. on the day on which it is granted.

OTHER FORMS OF COMPENSATION

Cash compensation for work done on the general rest day is exceptional. A provision of this kind is to be found in the arbitration awards for hospital employees in certain *Australian* States (New South Wales and Queensland). These employees are entitled to time-and-a-half rates for work done on the weekly rest day.

§ 3. — Postal and Telecommunication Services

ESTABLISHMENTS AND ACTIVITIES COVERED

Sunday work is a necessity resulting from the needs of certain services which, on that day, have to be carried on to an extent varying with the nature and amount of the business done or the class of office concerned. The handling and despatch of mail is usually carried out on Sundays as on other days. Similarly, a large number of offices provide telegraph and telephone services on Sundays. While the current work of the technical services may be interrupted on Sunday, part of the staff has nevertheless to undertake watch-keeping or supervisory duties or must be in reserve to cope with any interference with the line or the equipment. Consequently, a comparatively large number of postal, telegraph and telephone employees and workers have to work regularly on Sundays.

For continuous services at least, no distinction is made as a rule between Sunday work and work on other days. In view, however, of the shorter number of hours during which the offices are open and the smaller volume of business, non-continuous services work on Sunday for a limited period and the attendance of the staff is shorter than on week days.

WORK DURING THE USUAL WEEKLY REST PERIOD

Limitation of Number of Sundays Worked

In most countries a system of rotation is adopted in order that employees may not be employed for more than a specified number of Sundays in the month or year. In practice, postal, telegraph and telephone employees are usually not employed for more than three Sundays in the month.

In *Belgium* the practice for telegraph and telephone staff is to work one Sunday out of two or three.

In *Denmark* and *Estonia* the staff work one Sunday out of two, while in *France* the figure varies according to the office (one Sunday out of three, for example, in the main telegraph offices).

The number of Sundays that may be worked is limited to three successive Sundays in *Germany* for employees and workers in the postal services, who must be given one free Sunday out of four, while only half duty is allowed on one Sunday out of two.

In *Italy* the rule for postal and telegraph services operating on Sunday is for the employees to work one Sunday out of three. The position is the same in the *Netherlands*. In *Poland* the operating staff in services working continuously are generally on duty for not more than three Sundays in the month.

Lastly, in *Switzerland* the staff of operating services are not allowed to work for more than four consecutive Sundays or on more than 36 Sundays and recognised public holidays in the year.

Compensatory System

Sunday work may give a right to compensation in the form of time off or of increased pay. Both methods are usual, and sometimes the Administration may choose between them.

Compensatory Rest

As a rule the rest is taken during the week or fortnight immediately following or preceding the Sunday or other rest day during which the employee was on duty. This system of compensatory rest is in force in the following countries among others: *Denmark, Estonia, France, Italy, Latvia, Luxemburg, Poland* and *Switzerland*. In some of these countries, however, the staff is entitled to a compensatory rest only if the work on

the general rest day lasts for more than a specified number of hours (*Estonia*, 3 hours; *Poland*, 2 hours).

In *Belgium* the compensation is in proportion to the work done (for postmen a quarter of a day up to a whole day, according to the number of hours worked).

Another form of compensation consists in reducing the hours worked on another day of the week. This system is in force in the *Netherlands*, where hours are reduced on one or two weekdays of the week following the Sunday worked.

Provision for the possibility of accumulating rest days is rare.

In *Australia* professional radio employees (broadcasting) must be allowed one day off in seven, two days off in fourteen, or three days off in twenty-one.

In *Switzerland* postal, telegraph and telephone employees are entitled to 56 rest days in the year, suitably distributed over the year, and not less than 20 of these days must fall on a Sunday or recognised public holiday. Intervals of more than two weeks between two rest days and more than five weeks between two Sunday rests must be avoided as much as possible. As a rule not more than three rest days may be taken at once.

In the *U.S.S.R.*, where the staff of the Commissariat of Communications work on the system of the unbroken week (four working days followed by a rest day granted in rotation), travelling staff may accumulate rest days for a period of not more than 15 days. In that case the rest days must be granted within the following ten days.

Compensation in Cash

This system is adopted in *Bulgaria* (when business is intense), *Denmark*, *France* (employees in central and regional administrations, time and two-thirds rates), *Great Britain* (assistants engaged in post-office business), *Ireland*, *New Zealand*, *Portugal*, *Rumania* (staff of administrative services).

In the *U.S.S.R.* cash compensation is prohibited.

Choice between Time Off and Cash Compensation

Some countries leave it to the administration to choose between granting a compensatory rest and an increased rate of pay. The latter is given when it is not possible to provide a compensatory rest. This is the case in *France* (administrative services), *Latvia*, *Norway* and *Sweden*.

LENGTH OF REST PERIOD

When there is a regular system of rotation, the length of the rest period corresponds to that fixed for the Sunday rest, which is not always explicitly defined (*Argentina, Australia, Germany, Great Britain, New Zealand*).

The rest is fixed at 24 consecutive hours in *Colombia, Estonia* and *Italy*. The same figure applies in *Switzerland*, but the weekly rest must be preceded directly or very closely by a nine hours' spell of rest.

Longer periods are fixed in *Latvia* (30 hours), *Bulgaria* (36 hours) and the *U.S.S.R.* (39 hours, with the possibility of calculating the figure as an average for persons employed in shifts).

The length of the weekly rest is obviously influenced by the half-holidays which, in certain countries, are granted on Saturday or some other day of the week — a question dealt with in the preceding chapter.

§ 9. — Newspaper Undertakings

ESTABLISHMENTS AND ACTIVITIES COVERED

The organisation of the weekly rest of journalists and other persons employed in newspaper undertakings raises particularly difficult problems. A daily newspaper often finds it very hard to organise a system of shifts enabling part of the staff to take its rest day. The difficulties are accentuated by the specialisation of journalism that is the rule in the modern press. Owing to difficulties of supervision, the only really effective means of securing the weekly rest in newspaper undertakings lies in prohibiting the publication of newspapers on one day in the week, a measure corresponding to the compulsory closing of commercial establishments. Such provisions are still rare, however, and it seems to be fairly generally the case that journalists are secured their weekly rest by collective agreements or custom rather than by legislation.

Certain regulations apply solely to persons employed in the sale of newspapers, whereas others also cover all or part of the editorial staff.

SYSTEM OF GRANTING THE WEEKLY REST AND INTERVALS BETWEEN RESTS

As a rule the staff of newspaper undertakings are granted a periodical rest once a week. In *Belgium*, however, they are entitled to one day's rest in fourteen or half a day's rest in seven.

A prohibition against the publication of newspapers once a week is in force in *Cuba* and *Italy*. In *Spain* newspapers published in the evening or at night may not issue a morning edition or a special Sunday edition. Morning papers may not publish an ordinary or special edition on Monday. The sale of newspapers and periodicals between 7 p.m. on Sunday and 7 p.m. on Monday is prohibited. Work in the editorial offices and workshops must be suspended between 7 p.m. on Sunday and 7 p.m. on Monday.

COMPENSATORY SYSTEM

In the other countries with regulations in the matter the staff of newspaper undertakings are subject to the provisions laid down for certain other classes of establishment entitled to adopt a special weekly rest system. Such establishments are bound to enforce a rotation system under which Sunday work can be compensated by a rest granted in the course of the week.

A system of rotation or compensation exists in *Bulgaria*, *Italy* (staff engaged in the sale of newspapers), and *Rumania*.

In *France* and *Guatemala* the Sunday rest may be granted: (a) on a day other than Sunday to the whole of the staff; (b) from mid-day on Sunday to mid-day on Monday, (c) on Sunday from 12 noon, with a compensatory rest period on one day a fortnight in rotation; or (d) in rotation to all or part of the staff.

In *Greece* journalists and newspaper employees who work for more than three hours on Sunday must be given a whole holiday on the following Sunday or on another day of the week or they must be allowed free time for six consecutive hours on each of two days of the following week, this rest to be taken during the normal working hours.

In *New Zealand* all editorial staff except proof-reading departments must be allowed one full day and a half-day off in every seven days or three days off in every fourteen days or two days and two half-days in every fourteen days, the time off to be taken when convenient.

LENGTH OF THE REST PERIOD

The length of the rest period is often fixed at 24 consecutive hours (*France, Italy, Rumania*). A figure of 36 hours is prescribed in *Bulgaria*. In *New Zealand* the system ordinarily involves a day and a half of rest in the week.

§ 10. — Miscellaneous

HAIRDRESSERS' ESTABLISHMENTS

Several countries have introduced a special weekly rest system for hairdressers' establishments. In some cases it consists merely in an authorisation to open the establishment during a certain number of hours on Sunday, no compensation being provided for the work so done. In other cases a compensatory rest must be granted to the assistants.

Sunday Work Without Compensation

In *Belgium* hairdressers' establishments may open on Sunday from 8 a.m. to 12 noon, but this possibility has been suspended in a certain number of localities by Royal Orders.

In *Chile* hairdressers' establishments may open on public holidays in the morning and up to 1 p.m. On the eves of holidays the establishments may postpone closing until 11 p.m.

Similar provisions are in force in certain regions in *Greece*, where these establishments may open on Sunday for five hours. On Saturday they may close an hour and a half after the hour fixed for the other days of the week.

Lastly, in *New Zealand* hairdressers and barbers may be employed on Sunday up to 9 a.m.

Sunday Work With Compensatory Rest

Limitation of Sunday Work

Some countries restrict the number of Sundays on which the staff of hairdressers' establishments may be employed.

Thus, in *Brazil* the Sunday rest of hairdressers' assistants may be shifted to Monday ten times in the year.

In *Rumania* hairdressers' assistants must be given a whole holiday on Sunday at least once a month.

Limitation of Hours During which Establishments may Open

When the regulations authorise hairdressers' establishments to be open on Sunday the number of hours during which they may open is sometimes restricted.

Thus, in *Hungary* these establishments may be open from 6 or 7 a.m. until 12 noon if the majority of the owners of such establishments so decide. In *Luxemburg* the hours for Sunday are fixed from 7 a.m. to 2 p.m. In *Sweden* Sunday work may not last for more than two hours.

Compensatory Rest

Sometimes the rest granted in compensation for Sunday work must be given on Monday (*Brazil, Hungary, Rumania*).

In other cases it is granted in the course of the week (*Italy, Peru, Yugoslavia*). In *Sweden* such compensatory rest must be granted so far as possible.

In *Luxemburg*, if the Sunday work lasts for more than three hours, a compensatory rest must be granted in rotation.

Length of the Compensatory Rest.

The length of the compensatory rest usually corresponds to that of the ordinary Sunday rest (*Brazil, Sweden*). Sometimes it is specified that it must be 24 consecutive hours (*Italy, Luxemburg, Peru, Rumania*), to which period that of the daily rest may be added.

In *Brazil* the period is fixed at 37 hours and in *Yugoslavia* at 36 hours.

BATH ESTABLISHMENTS

In several countries bath establishments are also exempted from the obligation to close on the weekly rest day.

In *Sweden* they may remain open on Sunday for not more than four hours and in *Luxemburg* six hours (from 6 a.m. to 12 noon).

In other countries there are no such limitations but compensation must be granted for all work done on Sunday. In *Luxemburg*, however, compensatory rest is granted only if the Sunday work lasts for more than three hours.

The regulations usually contain no limitation of the number of Sundays in the month or year during which the staff of bath establishments may be employed.

Intervals Between Rest Days

Apart from those of *Belgium*, which provide for one rest day in fourteen or a half day in seven, and of *Rumania*, where the compensatory rest is also half a day only, all the national regulations grant a rest day in every period of seven days. The compensatory rest is usually given in the course of the week following the Sunday work. In *Portugal* it must be granted within three days of the Sunday worked. In *Sweden* a compensatory rest must be given so far as possible.

In *Colombia*, *France* and *Guatemala* the establishments may choose between granting the compensatory rest to all the staff at once, or in rotation to all or part of the staff, or dividing the rest into two half-days, or granting a rest from mid-day on Sunday to mid-day on Monday.

Length of Rest Period

The length of the periodical rest is usually fixed at 24 consecutive hours (*Colombia*, *Italy*, *Luxemburg*) or one day (*France*, *Poland*).

In *Argentina* (Buenos Aires public baths) the rest period is proportionate to the hours worked. If the staff is employed on the whole of Saturday afternoon and Sunday, the compensatory rest must consist of 35 consecutive hours. If only part of the Saturday afternoon and Sunday are worked, the staff are entitled to a rest equivalent to the number of hours worked.

B. — SYSTEMS APPLYING TO CERTAIN LOCALITIES OR REGIONS

Regulations concerning the weekly rest period in commerce and offices may provide special systems for workers in such establishments if the establishments are found in certain localities or regions. The special systems may be determined either in accordance with the size of the locality in which an establishment is found or the rural or agricultural nature of such locality, or the systems may be dependent upon the seasonal nature of business in a given region. National regulations containing provisions of this kind will be described below.

§ 1. — Systems Determined according to the Size of the Locality

In a number of countries regulations fixing a weekly rest period provide some kind of special system according to the size of the locality in which an establishment is found. These provisions may restrict the scope of the regulations, in which case certain of the establishments concerned may be entirely excluded from the regulations. Such provisions have already been discussed in a previous chapter. The description in this chapter is limited to those regulations in different countries which permit special systems of weekly rest to be applied to establishments or activities carried out in certain kinds of localities.

DEFINITION OF LOCALITY FOUND IN NATIONAL LEGISLATION

In general, where national regulations provide for special systems according to the size of the locality or the region in which an establishment is found, the criterion for these definitions comes under one of the three following heads: (a) the rural nature of a given community; (b) the number of inhabitants to be found in the city or village or area; or (c) the distance from a large centre or from a railway station. These definitions in some cases are specific and in other cases are left to the national authority for exact determination. However, a number of regulations do not come under these categories, as, for example, in Great Britain and Chile certain specific districts may be authorised on the basis of previous custom to remain open on Sunday, while in Spain the criterion for permitting certain establishments to remain open on Sunday may be based on local circumstances, the distance of the places concerned from neighbouring places with a population of more than 10,000 persons, the means of communication and any other circumstances which may give rise to injustice or may prejudice the interests of the persons engaged in the industry in the localities concerned.

Rural Communities

Special systems for rural communities or agricultural areas are found in the regulations of *Germany, Italy, Paraguay, Poland, Portugal, Rumania and Uruguay.*

In *Germany*, the special systems apply to all agricultural regions. In *Italy*, provision is made for districts where trade depends on the influx of the rural population on Sunday or on its being the custom of the said population to make its purchases on that day. In *Paraguay*, in rural districts work on Sunday may be done in certain establishments. In *Portugal*, certain commercial undertakings may remain open in localities where Sunday rest would be a serious prejudice. In *Rumania* special régimes may be established for rural communities whose economic situation or small number of inhabitants makes the Sunday rest period inapplicable. In *Uruguay*, rural zones are subject to special régimes.

Population of City or Village or Area

Special systems determined according to the number of the inhabitants are found in *Bulgaria*, *Germany*, *Greece*, *Spain*, *Uruguay*, certain States in the *United States of America* and *Yugoslavia*.

In *Bulgaria*, where weekly rest provisions are part of the general hours of work regulations, special regulations may be made for cities and villages of less than 10,000 except in the suburbs of Sofia.

In *Germany*, special systems are provided for small districts having less than 5,000 inhabitants.

In *Greece*, systems differ according to the number of inhabitants, one category concerning villages with under 4,000, a second, localities having from 4,000 to 10,000 inhabitants, a third, cities from 10,000 to 30,000, a fourth, all cities under 40,000.

In *Spain*, special systems are applied in all localities where the population is less than 10,000 persons. In addition special shop-closing provisions affect certain categories of establishments in places with more than 20,000 inhabitants.

In *Turkey*, the application of the weekly rest law to localities of less than 10,000 inhabitants is determined by the municipal councils, but the Minister of Public Economy may bring certain establishments in these localities under the law.

In *Uruguay*, special systems may be applied in cities or villages in which the number of inhabitants does not exceed 5,000.

In *Yugoslavia*, different systems apply according to whether the localities have a population of more or less than 10,000.

Distance from Large Centre or from Railway Station

The question of distance from a large centre or from the source of supply such as a railway station is made the criterion for special systems in *Bulgaria*, *Salvador* and *Yugoslavia*.

In *Bulgaria*, provision is made that establishments near stations 1 km. outside a city may be excluded from the regulations.

In *Salvador*, a rather general formula is used, in which it is stated that in localities in departments where special conditions of trade or communications are required, commercial establishments may be kept open on Sundays.

In *Yugoslavia*, special provisions apply to the hours that shops may remain open on Sunday, in localities of less than 10,000 inhabitants, if persons come regularly a distance of at least 5 to 15 km. from a locality containing over 10,000 people, where shops are closed on Sunday. Other provisions apply in localities situated not more than 15 km. from the State frontier for shops which were authorised to remain open on Sundays in 1922 (before the extension of the workers' protection law).

Establishments or Activities Permitted in Localities as Defined Above

The special provisions for certain regions or localities frequently do not affect all categories of establishments but are limited either to certain special categories or to those establishments, the closing of which would be of inconvenience or prejudicial to the public interest. Thus in *Germany*, the regional provisions apply to all stores. In *Greece*, the provisions apply to certain commercial establishments. In *Peru*, sales and exchanges customarily done on holidays are permitted in certain localities. In *Portugal*, the provisions apply to commercial undertakings in certain localities and to bake shops in others. In *Rumania* the special régimes may be applied to commercial establishments. In *Salvador*, the provisions apply to commercial establishments in general. In *Spain*, special provisions apply to public houses, on the authorisation of the provisional officers of the labour council, if it is deemed necessary in view of the nature of the establishment concerned. Other special provisions apply to savings banks and pawnbroking establishments. In *Yugoslavia*, the special régimes apply to shops and related establishments.

SPECIAL SYSTEMS FOR REST PERIODS FOR WORKERS OCCUPIED IN CERTAIN LOCALITIES

The special systems applied in the case of certain localities or regions varies greatly, since they depend upon the nature of the work carried out, the nature of the establishment and the nature of the area.

In general, it may be said that the systems used are either based upon some system of rotation to ensure 24 hours of rest on another day of the same week if a person is occupied on Sunday or on arrangements for compensation under which at least an amount of free time equal to that worked is granted on another day. However, in some countries the shop-closing regulations in certain localities permit a limited amount of work on Sunday without compensation but usually only for a fixed number of Sundays. In still other countries the systems used are adapted to the special nature of the locality.

A system of rotation requiring 24 hours' rest each week but permitting the said period to come on another day than Sunday is approved in *Peru*, *Portugal* and *Salvador*. A variation of this system is used in *Uruguay* where the weekly rest period must consist of one and a half days. In *Yugoslavia* employees in shops open on Sunday must have a rest period of at least 36 hours on the following day.

An example of the compensatory rest system is found in *Italy*, where the regulations applying to retail trade in certain localities provide that in case of work on Sundays there must be not less than 12 consecutive hours free on Sunday afternoon and compensatory rest of 12 consecutive hours during the week.

The system of permitting a limited amount of Sunday work without compensation is employed in *Germany*, where stores in special areas may be open for 24 Sundays for two consecutive hours, if the local conditions require. A compensatory régime is applied only if employees work more than three hours.

Examples of combined systems adapted to the special regional needs are found in *Greece* and in *Spain*. In *Greece*, the amount of Sunday work and the compensatory free time depends upon the size of the locality. In villages of under 4,000 inhabitants, stores may be open after divine service and there is no special compensatory provision. In localities of 4,000 to 10,000 inhabitants, employees may work five hours on the weekly rest day, but there must be time off on another day of the week. In

cities from 10,000 to 30,000, stores may only be open for three hours but employees may not be occupied in them. In general, in cities of under 40,000 employees may be made to work either all or part of four Sundays in the year. If a person works more than three hours on Sunday, he must either be free on the following Sunday or on another day of the week. In *Spain*, the regulations make it clear that the same workers shall not be employed for the whole day on two consecutive Sundays and they shall be allowed a break of not less than one hour during the hours in which religious services are held for the purpose of their religious duties. There must be no reduction of wages and, irrespective of the time worked on Sunday, there shall be a 24-hour rest period within seven days of Sunday.

§ 2. — Systems Determined According to the Seasonal Nature of the Activities of the Locality

In a certain number of countries special provisions determine the weekly rest for persons whose employment in commercial undertakings depends on the seasonal nature of the locality in which it is found. This is primarily the case in countries where the tourist traffic plays a definite part in the national economy. It has already been indicated in the chapter concerning scope that in some cases, as for instance, in the case of the *United States* laws prohibiting Sunday labour, undertakings in seasonal areas are entirely excluded from the provisions concerning weekly rest. Similarly in *Greece* establishments in summer resorts are excluded from the Sunday rest laws. The following section deals only with the regulations which cover such undertakings and provide some special system to take account of the nature of their needs.

DEFINITION OF A SEASONAL LOCALITY

A seasonal locality for the purposes of regulating weekly rest in commercial undertakings may either be defined in general terms as a holiday resort or tourist area, or more specifically according to the periods during which more or less intensive business is carried on.

Examples of the more general formula are found in *Germany*, where special provisions affect tourist areas, in *Great Britain*

where regulations apply to holiday resorts during certain seasons, in *Greece* where exceptions are made for summer resorts during the summer months, in *Poland* where all watering places are covered, in *Rumania* where the Minister of Labour may determine special systems for climatic resorts, watering places, tourist and sports centres and in *Switzerland* where special systems are applied in tourist areas, twice in the year, for two full seasons.

Examples of definition of a seasonal locality by specific dates are found in *Finland*, where the special provisions only apply from 1 June to 1 September; in *Hungary* where certain regulations affect the wholesale trade from 15 April to 30 October, others apply to food stores in the Lake Balaton resort area from 1 July to 15 September, while still others define the work period in thermal stations from 15 June to 31 August. Somewhat similar specific definitions are found in *Belgium* and *France* where special provisions affect establishments operating part of the year in watering places or at sea coasts. In *Belgium*, the definition states that to benefit by the specially flexible provisions, establishments must either be found in watering stations not more than 5 km. from the coast or in climatic resorts which must meet two of the following conditions: the hotel must be closed at least 6 months; the population of the resort must increase notably at certain times; or the hotel staff must increase notably at certain times; an additional restriction limits the special systems to the period between 1 June and 30 September.

ESTABLISHMENTS OR ACTIVITIES OPERATING ON SUNDAY IN SEASONAL LOCALITIES

The special provisions concerning the periodic rest period in effect in seasonal localities are usually restricted to certain kinds of establishments or activities such as hotels, restaurants, cafés, food shops or shops selling specified articles. The *Belgian* and *French* regulations concern hotels, restaurants and public houses. Regulations of the *French* public administration have to determine the exact categories of establishments in watering places that may come under the special provisions. The *Finnish* regulations concern shops, stations and offices if the municipal council so decides. The *German* seasonal regulations concern stores selling souvenirs, bath articles, luxury articles, articles

of devotion, tobacco, fresh fruit, fruit juice, chocolate, flowers and newspapers. The *British* regulations, like the German regulations, enumerate specifically the articles which may be sold, limiting them to bathing or fishing articles, photograph requirements, toys, souvenirs and fancy goods, books, stationery, photographs, reproductions and post cards and any article of food. The *Hungarian* regulations permit different articles according to different seasons. The stores in the Lake Balaton area are limited to food stores, clothing and souvenirs. The provisions applying to cure and thermal stations, affect hotels, restaurants, cafés, brasseries, etc. In *Rumania*, special regulations applying to thermal stations, tourist centres and sports centres may affect all articles for the use of tourists. In *Switzerland*, Federal regulations provide for special systems for the following establishments: (1) hotels, restaurants and refreshment houses, including in particular curative establishments, sanatoria, casinos, and dance-halls, which are liable to seasonal variations or which are open only during one or two seasons in the year; (2) in places which are decidedly tourist resorts, establishments which are liable to seasonal variations and are exclusively engaged in satisfying the requirements of tourists.

SPECIAL SYSTEMS FOR PERSONS OCCUPIED IN SEASONAL RESORTS

The special systems applied to seasonal establishments vary in much the same way as the regional systems described above, and may permit work on Sunday provided that an equal rest period is granted on another day or at a compensatory rate of payment, or without compensation for a limited period. In a few instances compensation is granted in the form of annual paid holidays instead of weekly rest periods. No generalisations can be made in this regard as the compensatory systems depend upon the local requirements.

For example in *Belgium*, for the period from 1 June to 30 September the compensatory rest may be spread over the fortnight but not more than two periods of four consecutive weeks may be worked without a rest period. Workers employed on Sunday must have compensation of at least one full day in 13 days. The rate of pay for Sunday work is at the normal rate.

In *France*, regulations may authorise a special system for periodic rest provided that the number of periods of 24 con-

secutive hours of rest shall be equal to the number of weeks worked, that they shall as far as possible be given on Sunday and that there shall be at least two days per month.

In *Finland* the only difference in the rest periods in seasonal localities and in other places is that the weekly rest may be reduced from 43 to 37 hours.

In *Germany*, workers in tourist areas may work for five consecutive hours on 26 Sundays and holidays. In this case the compensatory régime is as follows: for all employees working more than three hours on Sunday there must be on the following Sunday at least 18 hours minimum or 36 hours on Sunday coming at least once every three weeks. Another system permits 24 hours on some other working day if it is not possible to give a rest period on Sunday. Still another system provides that the rest period must fall on Sunday at least every third week, and in addition the worker must be given time to go to church. The determination of the use of the compensatory régime depends on the authorisation of the labour inspector.

In *Great Britain* certain shops in holiday resorts may be open for 18 Sundays in a year. In addition, the half-holiday in such shops may be suspended for four months if two weeks' paid holiday a year is granted to the employees. In order to apply the holiday resort provisions, an order must be made with the approval of two-thirds of the shops affected.

In *Hungary*, the provisions applying to the wholesale trade permit work until 2 o'clock on Sundays. Those applying to stores around Lake Balaton permit the stores to be open from 7 to noon on Sunday. The hotels, restaurants, etc., in resorts stations may work with no compensatory rest period but must be paid at time-and-a-quarter the regular rate of pay.

In *Polish* watering places persons employed on Sunday must have another day of 24 hours of rest.

In *Rumania*, if stores are permitted to remain open for any reason in thermal stations, a compensatory rest period of an equal amount must be given in another week.

In *Switzerland* Federal regulations authorise the weekly rest to be reduced in the establishments mentioned under the preceding heading to a half-day for not more than eight weeks during the busy season, but not more than twice in the year. This half-day may be omitted for one week in any period of a fortnight if two half-days or 24 consecutive hours of rest are granted in the other week.

Establishments which are open for the whole year and avail themselves of the above provision must grant a compensatory rest period equal to the omitted rest period either by extending the weekly rest or by granting several consecutive rest periods. Other establishments are not bound to grant a compensatory rest period unless they reduce the rest period to a half-day for more than six weeks during the busy season.

C. — SYSTEMS APPLYING TO CERTAIN PROFESSIONAL ACTIVITIES OR PERSONS

In a large number of countries, the weekly rest regulations contain provisions which establish special systems for certain professional categories or for persons occupied on certain kinds of work. In some cases, these special systems are based upon the work of the establishment in which the personnel is occupied while, in other cases, they are based upon the nature of the work itself. In the following section, only the latter kind of systems will be discussed, in view of the separate analysis made of the special systems according to the nature of the establishment. The systems applying to different kinds of professional categories described here are divided into three separate groups: first, work which consists largely of simple attendance or watch duty; second, work of cleaning, upkeep, maintenance and other occupations of a similar nature; and, third, the work carried on by the various members of the staff which is of a special nature apart from the general work of the establishment in which it is carried on.

§ 1. — Work Consisting Primarily of Simple Attendance or Watch Duty

In almost all regulations concerning weekly rest in commerce and offices some provision is made to except from the normal régime persons whose work consists largely of watch duty or of being on hand in case of call. In some regulations work of this nature is excluded entirely from the weekly rest provisions, as has already been seen in the chapter concerning scope. In some cases, as in *Belgium*, for example, the prohibition of work on Sunday does not apply in case of the watching of the premises of an undertaking but, although no compensatory system is applied, such work is only permitted in so far as the normal operation of the undertaking requires. In other regulations

special systems are provided for granting rest periods in such a manner as not to interfere with the necessary periods of watch duty. The special systems thus provided for work of this nature in different countries will be analysed here.

DEFINITION OF WATCH DUTY FOUND IN NATIONAL REGULATIONS

The special systems of rest periods for persons employed at work which consists primarily of being on hand in case of call or of watch duty of any kind may be based either on a definition of the nature of the work carried on or of a specific enumeration of the persons concerned. The provisions found in national regulations will be divided according to the method of determination followed.

Specific Examples of Determination by Nature of Work

Examples of special systems for weekly rest determined according to the nature of the work are found in the regulations of *Germany, Italy, Luxemburg, Netherlands, Paraguay and Switzerland*. In *Germany* a special régime is provided for watch duty of any kind. In *Italy* the law concerning weekly rest contains a special provision for casual work and watching which is defined to include the watching of undertakings and of plants. In *Luxemburg* provision is made for the watching of the premises of the undertaking. This applies to the duty of watching, irrespective of the nature of the undertaking concerned. In the *Netherlands* a special provision of the weekly rest regulations concerning shops applies to men whose work consists wholly or principally in watch duty. In *Paraguay* a general provision concerning work which cannot be interrupted because of the nature of the needs that it satisfies is interpreted to include the watching of commercial and industrial establishments. In *Switzerland* a special régime is applied to staff whose work consists in large part in attendance duty only, namely work of supervisors, commissionaires, watchmen, porters and similar occupations.

Definition by Enumeration of Persons Concerned

The special systems for providing for weekly rest for work of this nature are determined by the specific enumeration of the persons engaged in watch duty or related duties in the

regulations of *Australia, France, Italy, Norway, Spain* and *Turkey*. In New South Wales (*Australia*) an arbitration award makes a special provision which covers watchmen and caretakers, while in Victoria a special régime is provided, in the Factories and Shops Act, for watchmen. In *France* a special provision is made for watchmen and porters of commercial and industrial establishments for whom a weekly rest period cannot be given on Sunday. A different provision specially concerns watchmen in banks and credit offices. In *Italy* the general provision in the law concerning weekly rest described above is applied by a Decree in which watchmen are specifically enumerated as being persons whose work requires Sunday duty. In *Norway* a special system is provided for the work of watchmen and porters. In *Turkey* watchmen and porters are included in a special régime to apply to establishments which are closed on Sunday.

Definition of Certain Related Occupations

In certain countries regulations are made to cover the work of certain persons whose activities are closely related to that of watch duty although they are not specifically of the same nature as that of watchmen or concierges. For example, in *France, Norway, Spain, Switzerland, the United States of America*, and a number of other countries the same systems are applied to workers looking after animals. In the *United States*, Sunday work, if it consists only of looking after animals, is permitted without any special compensation. In *Paraguay* a similar provision applies to stablemen. An analogous regulation in *Poland* affects street cleaners. However, none of these cases will be dealt with in this report since they, in fact, form a part of agricultural work or transport rather than work in commercial establishments or offices.

WORK DURING THE USUAL WEEKLY REST PERIOD

The number of hours that may be worked on Sunday or on the usual rest day is not generally limited in the provisions concerning rest periods for watch duty, as it is clear from the nature of the work concerned that the work of attendance must be carried on throughout at least the major part of the day. However, as will be seen below, the compensatory régime may depend upon the number of hours that are actually worked,

in some cases only being in effect if more than two or three hours are worked. Similarly, most of the regulations fix a compensatory régime providing that persons whose work requires Sunday duty of some kind must have a certain number of Sundays free or must be free for part of the day on Sunday. There is seldom a limit fixed to the exact number of Sundays that may be worked, since it is clear that the work itself makes Sunday activities a normal operation. Nevertheless in some cases, a certain number of Sundays must be free, as, for instance, in the *Netherlands*, where watchmen must have at least two Sundays of rest in each consecutive eight weeks.

COMPENSATORY SYSTEMS

The special systems established for watch duty and related activities in most national regulations are usually based either on a system of rotation, thus requiring a period of at least 24 consecutive hours free on another day of the week, or on a system of granting a compensatory rest period equal to the time worked on the normal rest day. However, the rotation system sometimes is applied in such manner as may ensure a free Sunday every other week.

Rotation Systems

Rotation systems for applying the weekly rest provisions are found in the regulations of *Australia*, *France*, *Italy*, *Netherlands* and *Norway*.

In *Australia* (New South Wales) provision is made that not more than twelve shifts per fortnight may be worked by watchmen and not more than six days may be worked without one day off. In *Victoria* watchmen coming under the *Factories and Shops Act* must have one holiday free in every week. In *France* watchmen in commercial establishments for whom the rest cannot be given on Sunday must have a compensatory rest period. The guards in banks and credit offices receive a weekly rest period by rotation. In *Italy* the special provision for casual work in the weekly rest law, which includes watchmen, provides that persons employed during the whole or part of Sunday shall be given a rest period for the balance of the day and, in addition, a compensatory rest period equal to the number of hours' work performed on that day, but not in any case less than 12 consecutive hours. However, the decree applying the

law also provides that watch duty in general may be considered a duty requiring regular Sunday work for which a rest period of 24 consecutive hours may be given in rotation on a day other than Sunday. In the *Netherlands* persons on watch duty may not work more than 12 hours per day nor 72 per week, and must have at least two Sundays free in every consecutive eight weeks. In *Norway* provision is made that watchmen and porters who work on one Sunday shall be free in the next week from 6 p.m. on Saturday until 10 p.m. on Sunday. In addition, another provision assures a 24-hours continuous rest period each week.

Compensatory Rest for Work on Sundays

In certain of the regulations, instead of the system of rotation, a system of giving a number of hours compensation equal to that worked is provided. Examples of this are found in *France*, *Italy*, *Germany*, *Luxemburg* and *Paraguay*. In *France* a compensatory rest is given for watchmen and porters in commercial establishments. In *Italy*, as stated above, if only part of Sunday has been worked a rest period must be given for the balance of the day and a compensatory rest equal to the number of hours performed on that day but not less than twelve consecutive hours. In *Germany* provision is made that if work on Sunday continues more than three hours or prevents workers from going to church they must either receive a rest period of 36 hours each third Sunday or a rest period from 6 a.m. to 6 p.m. each second Sunday. If, on the other hand, it is possible for them to go to church they may be given a 24-hour rest period on some other day of the week. In *Luxemburg*, watchmen if employed regularly more than three hours on Sunday are entitled to a compensatory rest period given in rotation. A compensatory rest period must consist either of 24 consecutive hours or of two half-days every fortnight. The half-day's rest must be taken entirely before or after 1 p.m. and hours worked on the day of the half-day must not exceed five hours. In *Paraguay* a compensatory rest period must be given during the following week, within the ordinary working hours, of a consecutive period equal to that worked on Sunday.

The *Swiss* regulations require that workers occupied regularly on Sunday must receive a weekly rest on a working day. If the Sunday work is more than four hours the compensatory rest on the working day must be at least 24 hours. If,

however, the Sunday work is less than four hours the compensatory rest must be at least equal to one-half a working day and must be given either immediately preceding or immediately following the ordinary daily rest. At least once in every three weeks the weekly rest must fall either on Sunday or a legal holiday. Furthermore, the worker may not be required to do any work or be on call during his rest period. In case of workers employed on Sunday free time must be given, to go to Divine service. Money compensation cannot be substituted for compensation in time.

§ 2. — Work of Cleaning, Upkeep, Maintenance, etc.

Owing to the special nature of the work, cleaning and maintenance work in general must frequently be carried on outside the normal hours of work of an undertaking. In consequence most national regulations concerning the weekly rest day make some provision to permit work of this nature to be carried on during the day of rest when it will least interfere with the normal operation of the establishment. The work of cleaning and maintenance is in some cases assimilated to that of watch duty and comes under the same provisions as those just described for watchmen. However, in most regulations a distinction is made, since cleaning is usually carried on for only part of the day on Sunday and therefore requires a compensatory period of hours rather than the arranging of a rotation system to permit a weekly rest of a full day on a different day of the week. In certain countries, where the weekly rest includes a half-holiday on Saturday, this additional period may be shortened in the case of cleaning and similar activities.

DEFINITION ATTACHED IN NATIONAL REGULATIONS

The determination of what work may be carried out on Sunday may either be done by means of a general permission to carry on the work of cleaning, maintenance or upkeep or by an enumeration of the categories of employees concerned. Examples of both systems are found in national regulations. Thus, in *France* a provision is made for work of upkeep which must be carried out on the day of the collective weekly rest and which is indispensable to prevent a delay in the resumption of the normal work of the undertaking. Similarly, in *Italy* provisions in the weekly rest law under the heading of casual

work indicate that casual work shall include maintenance, cleaning and repairing of plants along with the watching duty described above and, in addition, stocktaking and drawing up of the annual balance-sheet. The latter provisions are, however, dealt with in the following chapter under "temporary exceptions". In *Germany* cleaning and upkeep which are necessary for the regular operation of the undertaking itself or of a different undertaking are permitted on Sundays, along with other work which is necessary in order to permit the regular operation of the establishment on working days. In *Luxemburg* provision is made for cleaning, repair and maintenance work necessary for the regular continuance of the work of the undertaking and work other than that involved in production required for the normal resumption of the work of the undertaking on the next day. In *Norway* a rather general provision somewhat similar in form to the German regulation permits work on Sunday to ensure the normal working of the establishment or of another establishment and includes in this work stoking, heating and cleaning, maintenance work, repairs to workrooms, machinery and other equipment, clearing up, stocktaking and making up the balance sheet.

In contrast to the provisions described above concerning the work of cleaning, maintenance and repair, some national regulations make specific provision for the weekly rest of cleaners. Thus, in *Italy* the Decree applying the weekly rest law specifically enumerates window and floor cleaners and cleaners of offices and undertakings, while in *Turkey* special provision is made for cleaners in establishments which close on Sunday.

It should be noted that stocktaking, making up the balance-sheet and similar occupations, which are dealt with specifically in the next chapter, are, as has been seen, fairly frequently included in the same provisions in national regulations as those dealing with cleaning and related occupations. Another occupation which might be assimilated to that of cleaning and repair work is that of daily sanitary work, street cleaning or the removal of refuse. Special provisions for these occupations occur in some countries as, for example, removal of refuse in *Paraguay*, daily sanitary work in *Peru* and street cleaning in *Poland*. This work may also be associated with that of watch duty or care of animals described above but in any case will not be dealt with in any detail in this report as they do not appear to come within the scope of a report on commerce and offices.

WORK DURING THE USUAL WEEKLY REST PERIOD

In most regulations the work of cleaning and upkeep is limited to that which is strictly necessary. For example, in *Italy* the work is limited to that which cannot be performed on workdays without harm to the work of the undertakings or danger to the employees. The *German* regulation permitting Sunday work of this nature limits it to the work which could not be carried on during the working day.

In certain regulations where the work of cleaning or maintenance only affects the Saturday half-holiday, provision is made to permit this work up to a certain hour. For instance, in *Argentina*, where the normal weekly rest period in commercial establishments starts at 1 p.m. on Saturdays, cleaning may be done in such establishments, including banks and public enterprises, until 8 p.m., thus reducing the weekly rest period by seven hours.

COMPENSATORY REST SYSTEM

While in some cases, as in *Norway*, the compensatory rest system for the work of cleaning and related occupations may be based, as in the case of watch duty, on a system of rotation, the special rest system for cleaners is more frequently based on a system of giving a compensatory period on another day equal to the work done on Sunday. Frequently the two systems are so combined that it is impossible to make a clear distinction between them.

An example of the rotation system is found in *Norway*, where a provision states that if an employee has worked on Sunday he shall have the next Sunday free, Sunday being defined to cover the period from 6 p.m. on Saturday until 10 p.m. on Sunday. A further provision in the Norwegian regulations assures a 24-hour rest period each week. A system similar to that of rotation is used in *Australia*, where it is provided that cleaners, like watchmen and caretakers, may not work more than 12 shifts per fortnight and not more than six days without one day off. In *Italy*, in the case of window and floor cleaners and cleaners in offices, enumerated in the Decree, 24 consecutive hours' rest must be given on another day than Sunday in rotation. In *Turkey* cleaners, if they worked on Sunday, must receive 24 hours free on another day in the same week.

A more frequent system, however, is similar to that found in *France*, where the work of cleaning must be limited to a half-day and compensation must be given of one full day or two half-days. In *Germany* cleaning work, like that of watch duty, depends on the number of hours worked. If it continues for more than three hours or prevents workers going to church they must receive a rest period of 36 hours at least each third Sunday or a rest period of 12 hours falling between 6 in the morning and 6 in the evening, each second Sunday. In *Luxemburg*, a combined system is used, whereby if cleaners are employed more than three hours on Sundays they are entitled to a compensatory rest period given in rotation, either of 24 consecutive hours or of two half-days every fortnight. However, in both Germany and Luxemburg, if they are employed less than three hours no compensation appears to be required. In *Italy* the general provision of the law applying to casual work, which is defined to include maintenance, cleaning and repairing of plant, makes it clear that if a worker is employed in such an occupation for only part of Sunday he must receive a rest period for the balance of Sunday and a compensatory rest equal to the number of hours performed on that day, such rest in any case not to be less than 12 consecutive hours.

D. — SYSTEMS APPLYING TO SPECIAL RELIGIOUS GROUPS

The customs and practices of certain religious groups make it desirable that the weekly rest day for certain categories of establishments or for certain persons be granted on a day other than Sunday. Consequently the regulations concerning the weekly rest in a small number of countries contain special provisions to meet the needs of these groups. These special provisions deal primarily with the day on which shops must be closed, or with the strict observance of the prohibition of work on Sunday.

Most of the provisions applying to special religious groups concern shops, and more especially Jewish shops. The two most important examples of provisions concerning particularly Jewish shops are found in the regulations of *Great Britain* and the *Union of South Africa*. In *Great Britain* the Shops Acts provide that an occupier of any shop who is a person of the

Jewish religion shall be entitled to apply, under a special procedure, to have the day of closing of his shop changed according to his special needs. Similar provisions may also apply to other religious groups which do not observe the Sunday rest. In this case the shops must be closed for all purposes connected with trade or business on Saturday and the provisions requiring the shop to be closed on Sunday do not apply until two o'clock in the afternoon. Provisions in the Act specify the procedure to be followed in order to know which shops are Jewish and which are not, and indicate the steps taken to prevent a person of the Jewish religion owning several shops from registering one and not others when making application to come under the special system. In the case of Jewish shops the weekly rest continues to come on one day in seven but is given on Saturday instead of Sunday. The extensions of weekly rest beyond the minimum of one day in seven are given for Jewish shops in the same way as for ordinary shops, except to the extent that shop assistants in Jewish shops must be free after 2 p.m. on Sundays. A question is before the courts as to whether the occupier of a shop is required to close only on a Saturday or during a Saturday and on the whole of the Jewish Sabbath, namely from sunset on Friday. In addition to the general provision concerning Jewish shops, which is found in the Sunday Trading Restriction Act, the Retail Meat Dealers' (Sunday Closing) Act provides that any person of the Jewish religion may carry on the business of a Jewish dealer in kosher meat and may keep open a shop for the serving of customers for the purposes of that business on Sunday subject to certain conditions. These conditions require that the dealer be licensed for the sale of kosher meat by the local board of Schechita, or in the absence of any such board, by a committee appointed for the purpose by a local Jewish congregation, established in accordance with Jewish law. In addition, he may not carry on the business of a retail dealer for kosher meat or butchers' meat on Saturday, and if he carries on the business in a shop he may not keep the shop open for the purpose of business on Saturday. Furthermore, he must previously give notice to the local authority of his intention to carry on the business of a retail dealer in kosher meat on Sunday.

In the *Union of South Africa* a provision in a State Ordinance concerning shop closing provides that butchers who deal in kosher meat and who satisfy the local authorities that they keep

their shops *bona fide* closed from sunset on Friday to sunset on Saturday throughout the year and who are duly registered by such local authorities, may be permitted to deliver kosher meat from such shops, or by means of any conveyance, on the Lord's Day at any time before 9 o'clock in the morning.

In the *Netherlands* any manager of a shop who belongs to a religious community having as a weekly rest day the sabbath or the seventh day may be authorised, at his request, by the Burgomaster to open his shop to the public on Sunday from 5 a.m. to 4 p.m. If the shop sells exclusively or principally fish or fruit, or one or more of the following foodstuffs, namely, bread, cakes, candy or chocolate, and in addition if the shop sells ice-cream, it may remain open up to 8 p.m. However, from 4 p.m. to 8 p.m. only the sale of the enumerated foods may be carried on. In either case, whether the shop is open until 4 p.m. or until 8 p.m., it must be kept closed on the Sabbath or the seventh day. A further provision in the Netherlands law states that men and women belonging to a religious faith observing the weekly rest on the Sabbath or the seventh day, and who have made a request to change the weekly rest day from Sunday, may have the weekly rest shortened from the minimum of 32 to 26 hours.

In the *United States* in the Connecticut law prohibiting work on Sunday a provision states that no person who conscientiously believes that the seventh day of the week ought to be observed as the Sabbath and actually refrains from secular business and labour on that day, or who conscientiously believes that the Sabbath begins at sundown on Friday night and ends at sundown on Saturday night and actually refrains from secular business or labour during such period, and who has filed written notice of such belief to the prosecuting attorney of the court having jurisdiction, will not be liable to prosecution for performing secular business or labour on Sunday provided that he does not disturb any other person who is attending public worship. Thus, the Connecticut Sunday Labour Law, when applied to persons observing another day than Sunday as the Sabbath, still requires a compensatory rest period.

CHAPTER V

EXCEPTIONS

Although national regulations concerning the weekly rest usually provide for the exemption of specified classes of establishments or activities or lay down special systems for them, they also permit exceptions to the general system for various reasons which will be examined in this part of the Report.

The regulations further determine the nature of the exceptions by authorising the suppression or reduction of the weekly rest and by making it possible to alter the day on which the rest is granted.

When the exceptions involve a reduction in the rest period of employed persons, compensation is generally allowed, usually in the form of time off at a later date and sometimes in the form of higher remuneration. Some regulations permit a choice between time off and higher pay or provide for both these two forms of compensation together.

The regulations also determine the procedure to be followed with regard to exceptions to the weekly or the Sunday rest. In most cases, since the object of the exception is to enable urgent or extraordinary needs to be met, it may be applied without formality. Sometimes, however, it is made conditional on preliminary authorisation by the competent authority.

Lastly, in case of circumstances endangering national safety, the regulations permit the suspension of the provisions on the subject or the introduction of exceptions to the normal system.

The following questions will be examined in this chapter:

- A. Reasons for exceptions;
- B. Nature of exceptions;
- C. Compensation;
- D. Procedure;
- E. Suspension of regulations or authorisation of exceptions for reasons of State.

A. — *REASONS FOR EXCEPTIONS*

As was seen in the preceding chapter, the regulations make provision for special systems for certain types of work which must be done on the day usually devoted to the weekly rest. Such operations include, first of all, work on which the normal resumption of activity on the following day depends (cleaning, upkeep, maintenance, watching, etc.). In some countries provision is made for exceptions of a permanent character permitting work of this sort to be carried out; but the provisions relating to permanent exceptions were examined in the chapter devoted to special systems for certain groups of activities or persons, since similar provisions apply in both these cases.

Secondly, certain work must be done on the usual weekly rest day for reasons of public interest or in order to satisfy the needs of the population. For such operations the regulations permit exemptions in some countries and special systems in others. As an instance, the regulations of the United States of America, Great Britain, Ireland and the British Dominions exclude from the scope of the provisions on the Sunday or weekly rest all persons engaged in works of necessity or charity. In other countries the regulations provide for special systems for specified classes of establishments the operation of which cannot be interrupted: this applies more particularly to chemists' shops, shops selling articles of prime necessity, hotels and restaurants, entertainment undertakings, hospitals, and postal, telegraph and telephone services. The work in question involves either the taking of the weekly rest on another day or a reduction in the length of the rest.

In some countries the regulations permit exceptions based on the importance of certain work for the community and — apart from these — provide for modifications of the general system in various circumstances. Most regulations explicitly indicate the reasons on which the exceptions may be based. Others do not lay down exact reasons, but permit exceptions as required. The reasons accepted by the various national regulations therefore do not correspond closely with each other. These various provisions will be examined in the present chapter.

Since permanent exceptions are dealt with in the chapter relating to special systems, the provisions examined here apply:

either to exceptions of a periodical character required in order to carry out work which occurs at dates known in advance

and which must be done on the weekly rest day so that the normal working of the establishment shall not be hindered or so that extraordinary pressure of work may be met (stock-taking, preparation of balance-sheets, sales during holiday periods, fairs, markets, seasonal sales, etc.);

or to exceptions of an occasional character permitted in case of urgent work to prevent or repair accidents, or in case of *force majeure*; and exceptions permitted in case of work required for economic reasons or in the public interest.

§ 1. — Exceptions for Stocktaking, Preparation of Balance-Sheets, etc.

The work required for periodical stocktaking or preparation of balance-sheets is authorised on the day of the weekly rest in a number of countries, including *Argentina, Australia* (Queensland), *Estonia, Finland, Germany, Italy, Norway, Paraguay, Uruguay* and *Yugoslavia*.

In *Australia* (Queensland), *Germany* and *Italy* the exception is limited to the annual stocktaking. In *Estonia* the regulations state that salaried employees may be occupied on the day of the weekly rest in case of stocktaking or the preparation of periodical balance-sheets, and in *Finland* for stocktaking and the regular closing of accounts and making up of balance-sheets. In *Uruguay* the exception may be applied to stocktaking and the preparation of balance-sheets or weekly accounts in banks.

§ 2. — Exceptions in Connection with Public Holidays

In several countries provision is made for the possibility of working on the weekly rest day preceding or following the chief public holidays such as Christmas, New Year and Easter. These exceptions apply especially to shops which have to deal with a particularly large volume of business during these periods.

In *Bulgaria, Poland* and *Rumania* the regulations authorise shops to work on the weekly rest day preceding Christmas, New Year and Easter.

In *Switzerland* exceptions to the weekly rest are permitted in the postal, telegraph and telephone service at periods of peak business, particularly at New Year, Easter and Christmas:

In *Denmark* the prohibition of trading does not apply to the last Sunday before Christmas, the first Sunday in May and the first Sunday in November.

In *Greece* commercial establishments may require their employees to work on the weekly rest days near Christmas and the New Year.

In *Hungary* all shops may remain open on the Sunday before Christmas and the Sunday before or after St. Stephen's Day.

In *Portugal*, shops selling carnival goods, fireworks and articles used for festivals may remain open on the weekly rest day preceding festivals.

In *Yugoslavia* all commercial establishments may work on the Sundays preceding Christmas and the two days of Bairam, provided that the establishments in question are situated in a locality where one-third of the population belongs to the religion which keeps these festivals.

§ 3. — Exceptions authorised during Fairs, Markets, Seasonal Sales, etc.

As stated in the previous chapter, the regulations of certain countries prescribe special systems for street trading, markets and fairs. The provisions examined here apply only to the temporary exceptions that are allowed on the occasion of periodically recurring fairs, markets or seasonal sales in specified localities to enable commercial establishments to deal with a particularly large volume of business.

Exceptions of this sort are authorised, for example, in *Bulgaria, Finland, Greece, Poland, Salvador, Spain and Yugoslavia*.

In *Bulgaria* and *Yugoslavia* commercial establishments may remain open on the weekly rest day on which the annual fair is held.

In *Finland* exceptions to the rule concerning the weekly rest are allowed in case of seasonal sales.

In *Greece* the Sunday rest does not apply during certain local fairs.

In *Poland* during exhibitions and national or international fairs, shops, places for the sales of goods by way of trade and establishments situated on the exhibition or fair ground may

be authorised to work on the weekly rest day if the character and needs of the exhibition or fair so require.

In *Salvador* shops may remain open on Sundays during authorised local fairs when special conditions of trade so require.

In *Spain* selling at markets, fairs and pilgrimages is authorised on Sundays, provided that these events are traditional and that it is essential that they should take place.

§ 4. — Exceptions in Case of Accident, Actual or Threatened or other Cases of "Force Majeure"

All the regulations concerning the weekly or Sunday rest permit exceptions of an occasional character in case of urgent work which cannot be foreseen. In some countries, e.g. *Canada*, *Germany*, the *Netherlands*, the *United States* (some States) and *Yugoslavia*, the regulations have recourse to general formulæ — urgency, special circumstances, exceptional circumstances. These formulæ cover exceptions in case of accident.

Most of the regulations define the reasons for which work may be authorised on the weekly rest day. They make provision for exceptions:

1. to organise rescue or salvage work;
2. to prevent or repair accidents;
3. in any other case of *force majeure*.

EXCEPTIONS TO ORGANISE RESCUE OR SALVAGE WORK

In several countries, including *France*, *Guatemala*, *Luxemburg*, *Poland* and *Rumania*, the regulations permit exceptions in case of urgent work, the immediate execution of which on the weekly rest day is required for rescue or salvage purposes.

EXCEPTIONS TO PREVENT OR REPAIR ACCIDENTS

Most of the regulations provide for exceptions with this object in view, for example, in *Argentina*, *Ecuador*, *Estonia*, *France*, *Guatemala*, *Luxemburg*, *Paraguay*, *Poland*, *Portugal*, *Rumania*, *Spain* and *Switzerland*.

In *Denmark* the prohibition of trading on the weekly rest day does not apply in case of bad storm, flood or snow, accidents or other unforeseen events.

In the *United States* (Wisconsin) work is authorised in case of a breakdown of machinery or equipment or other emergency requiring immediate services to prevent serious injury to persons or damage to property.

In *Finland* commercial establishments and offices may require their employees to work on the weekly rest day in order to avert danger to property. The same applies to hotels and restaurants when natural phenomena, accidents or other dangers threaten to interrupt work or when its interruption would cause damage.

Exceptions to the weekly rest are permitted in *Latvia* when indispensable repairs must be done, and in *Norway* in order to prevent damage to plant or machinery.

In the *U.S.S.R.* a worker's rest day may be shifted to another day in exceptional cases, in particular for indispensable repair work or work necessitated by accidents.

In *Great Britain* and in *Ireland*, in the case of persons who have infringed the provisions concerning the weekly rest, it is considered a good defence if they can prove that the infringement was rendered necessary by accident or sickness.

In *New Zealand*, the *Union of South Africa* and the *United States* (Colorado), pharmacies may work on the weekly rest day in case of sickness, accident or epidemic. In *Great Britain*, barbers may also work on Sundays in case of sickness or accident.

In *Great Britain* and the *U.S.S.R.* exceptions are authorised in public entertainment establishments, in case of emergency caused by a breakdown or by the unforeseen absence of a person who is due to attend on the weekly rest day and for whom no substitute can be readily obtained.

In *Switzerland* exceptions are permitted in the postal, telegraph and telephone services in case of shortage of staff resulting from sickness, military duty or the exigencies of the service.

EXCEPTIONS IN CASE OF "FORCE MAJEURE"

In *Belgium*, *Bulgaria*, *Chile*, *Colombia*, *Ecuador*, *Estonia*, *Greece*, *Italy* and *Uruguay* provision is made for exceptions to the rule concerning the weekly rest in case of urgent work the execution of which is necessary by reason of *force majeure*. The *Belgian* regulations also provide that the prohibition of

work on Sunday shall not apply in case of necessity which the employer could not normally foresee. In *Chile*, work to repair damage due to *force majeure* is authorised only if it cannot be postponed.

§ 5. — Exceptions for Economic Reasons

As stated above, the regulations frequently make provision for exceptions of a periodical character to enable commercial establishments — and particularly shops — to meet pressure of work due to the Christmas and New Year holidays, fairs, annual markets, etc.

In many countries provision is also made for the possibility of working on the weekly rest day for exceptional reasons of an economic character or for reasons defined in a more general way but including economic reasons. A distinction may be made between:

1. exceptions for extraordinary pressure of work; and
2. exceptions for other reasons.

EXCEPTIONS FOR EXTRAORDINARY PRESSURE OF WORK

Most of the regulations authorise exceptions for this reason, though often it is not specifically mentioned.

In *Australia* and *New Zealand* the regulations allow exceptions to the rule concerning the weekly rest in so far as such overtime has been authorised by statute or by arbitration award. Work on Sundays carries with it the right to higher remuneration as compared with the normal wage.

In several countries — *Belgium*, for instance — the commercial establishments, and particularly the retail shops and hairdressers' establishments, in certain coast resorts are authorised to work on a specified number of weekly rest days during the year. The object of these exceptions is to meet pressure of work during the season.

In other countries the regulations rely on general formulæ — urgent and unforeseen work, work in unusual circumstances, etc. — to permit exceptions in case of pressure of work. This applies *inter alia* to *Argentina*, *Brazil*, *Finland*, *Latvia*, *Luxemburg*, *Poland*, the *Union of South Africa* and *Uruguay*.

In *Brazil*, in banks, exceptions are permitted by collective agreement in case of urgent work which cannot be foreseen.

In *Finland* employees of offices and commercial establishments may be occupied on the weekly rest day in case of urgency or if work must be completed by a certain date, provided the engagement of additional staff cannot reasonably be required.

In *Latvia* urgent work may be completed on Sundays.

In *Luxemburg* shop staff may be occupied on Sundays in exceptional cases if special needs arise.

In *Poland* the employees of commercial establishments may be occupied on the weekly rest day in special cases or on application showing good cause.

Lastly, in *Argentina*, the *Union of South Africa* and *Uruguay*, exceptions are permitted *inter alia* for the storage and sale of agricultural products during the harvest season.

Exceptions for the reason — specifically stated — of extraordinary pressure of work, accumulation of work or a particularly large volume of business are authorised in *Estonia*, *Italy*, *Japan*, the *Netherlands*, *Salvador*, *Switzerland* and the *United States* (Minnesota). As is made clear by the *Swiss Circular* on the enforcement of the weekly rest, such exceptions must be limited to the performance of work of an extraordinary character which cannot be foreseen: the Circular states that the expression "extraordinary pressure of work" should be interpreted in a manner obviating all abuse, and that when a large volume of work occurs regularly or can easily be foreseen, the employer must engage the additional labour required.

EXCEPTIONS FOR OTHER REASONS

The regulations concerning the weekly rest also permit exceptions:

- (1) to avoid the spoiling of perishable goods;
- (2) in case of the selling off, closing down or removal of the business;
- (3) for practical reasons not further specified.

Exceptions to Avoid the Spoiling of Perishable Goods

In several countries, e.g. *Belgium*, *Colombia*, *Denmark*, *Estonia*, *Finland*, *Germany*, *Luxemburg* and *Yugoslavia*, the regulations authorise exceptions to enable work to be done on the weekly rest day in order to prevent the spoiling or loss of raw materials or manufactured products, provided such work cannot be done on a working day.

Exceptions in Case of the Selling Off, Closing Down or Removal of the Business

Such exceptions are permitted, for example, in *Estonia*, *Finland* and *Yugoslavia* for commercial establishments and offices.

Exceptions for Practical Reasons not further Specified

In some countries, such as *Norway*, *Sweden* and the *United States* (Wisconsin), the regulations provide for the possibility of working on the weekly rest day in case of practical difficulties, or for practical reasons, or when the nature of the work so requires.

§ 6. — Exceptions for Reasons of General or Public Interest

A large number of regulations permit exemptions or special systems in order to take account of the needs of the community, the public importance of certain work being such that it must be possible to do it on the weekly rest day.

In many countries the regulations provide also for the possibility of temporary exceptions in order to meet needs of a public character. Provisions of this sort are to be found in the regulations of *Brazil*, *Chile*, *Ecuador*, *Germany*, *Greece*, *Italy*, *Latvia*, *Luxemburg*, *Portugal*, *Salvador*, *Spain*, *Sweden*, *Venezuela* and *Yugoslavia*. These regulations provide that exceptions to the normal system are permissible in case of public necessity or when the general or public interest so requires.

In *Chile*, *Ecuador*, *Spain* and *Venezuela*, the regulations lay down exceptions to the normal system for classes of operations which cannot be interrupted owing to the nature of the needs which they satisfy, or to the necessity of avoiding grave injury to the interests of the public or of the establishment. Furthermore, in *Spain* temporary exceptions may be authorised by the Government in the case of establishments which, owing to their special conditions or to accidental causes cannot be conducted successfully if they are subject to the general rule.

In *Greece* work on Sundays may be authorised, as an exceptional measure, in certain commercial establishments in case of public need.

In *Luxemburg* total or partial exceptions may be introduced by Ministerial Order for commercial establishments the operation of which on Sundays is required in order to satisfy public needs arising daily or more particularly on Sundays.

In *Portugal* the exception applies to commercial establishments where the stopping of work on Sundays would cause an obviously serious loss.

In *Salvador* commercial establishments may remain open on Sundays in places where the special conditions of trade or communications so require.

Lastly, in *Sweden* exceptions may be authorised for certain employees when the needs of the community so require.

B. — NATURE OF EXCEPTIONS

The nature of the exceptions allowed must be considered with reference to the general or special systems reviewed in the preceding chapters. The various regulations provide for:

1. exceptions affecting the length of the weekly rest — according to circumstances, the rest may be entirely suppressed or it may be shortened;
2. exceptions affecting the day on which the rest is granted, but not its length.

§ 1. — Exceptions affecting the Length of the Weekly Rest

The various regulations allow of total or partial exceptions to the prescribed length of the weekly rest. As a rule, exceptions for accidental causes cannot be exactly determined, and in such cases the regulations accordingly allow total exceptions to the length of the weekly rest.

On the other hand, exceptions granted, for example, to meet extraordinary pressure of work can usually be determined in advance. In such cases the regulations set a limit to the duration of the exceptions or prescribe a minimum period of rest.

EXCEPTIONS NOT LIMITED IN TIME

The various laws and regulations apply two different methods of granting exceptions the length of which cannot be strictly determined. The first consists in allowing the employer to

waive the regulations concerning the length of the weekly rest to an unlimited extent. The second and stricter method consists in allowing the exception only so long as is absolutely necessary for the completion of indispensable work.

Exceptions Unlimited in Time

Such exceptions as are necessary for work in the public interest are unlimited in extent in several countries, including *Argentina, Brazil, Canada, Ecuador, Germany and Yugoslavia*.

The regulations of *Great Britain, Ireland, New Zealand* and the *United States of America* allow total exceptions for works of necessity or charity.

In *Finland, France, Germany, Greece, Guatemala, Luxemburg, Norway, Portugal, Rumania, Spain, Switzerland* and *Yugoslavia* exceptions, unlimited in length, are allowed in the case of urgent work for organising rescue or salvage work, or preventing or repairing accidents, or in any other case of *force majeure*.

In some countries, such as *Switzerland*, the regulations permit the temporary suppression of the weekly rest necessary to prevent the deterioration of materials or goods or to meet extraordinary pressure of work.

Exceptions Limited to the Time Strictly Necessary

In several countries, urgent work which cannot be foreseen and work which is necessary to prevent the deterioration of materials or products is permitted on the weekly rest day only so far as the operation of the undertaking will not allow such work to be done on a working day. That is the rule, for example, in *Belgium, Germany, Luxemburg, Uruguay and Yugoslavia*.

In *Italy*, such work is permitted only so far as is necessary to avoid interference with the ordinary working of the establishment.

In *Argentina, Chile, Colombia, Ecuador, Italy, Paraguay* and *Spain*, the work may not last longer than is necessary for the purposes of the exception. The *Chilean* regulations state that as a general rule exceptions with regard to the weekly rest shall apply, in each undertaking, exclusively to the services or branches of the undertaking in which the work necessary

to avoid serious damage is carried on, and to the persons absolutely necessary for the performance of that work.

In *Spain* the workers may be employed only during the number of hours recognised as necessary to meet the exceptional circumstances, and they may not work the whole day on two consecutive Sundays.

In *Finland* urgent work may only be done to a reasonable extent and in *Norway* to the extent necessary in the circumstances.

In the *Union of South Africa* the regulations applicable to chemists' and druggists' shops in the Cape of Good Hope and in the Orange Free State provide that such establishments may supply medicines or medical or surgical appliances at any time but may only remain open so long as is necessary for that purpose. The Cape of Good Hope Ordinance adds that chemists shall keep their premises open only to allow of the entrance or exit of a customer or customers and shall close and lock them immediately after such entrance or exit.

EXCEPTIONS LIMITED IN TIME

The extent in which the weekly rest period may be reduced may be restricted in two ways. The first consists in indicating the extent to which the rest period itself may be reduced, the second in prescribing a minimum weekly rest period.

Extent to which the Weekly Rest Period may be Reduced

The regulations may provide that the weekly rest period may be reduced;

- (i) on a certain number of days in the year; or
- (ii) on a certain number of days in the year and by a certain number of hours in the day.

Number of Days in the Year during which Exceptions are Allowed

The extent of exceptions to meet pressure of work is often limited. In *Belgium*, *Brazil*, *France*, *Germany* and *Greece* the regulations limit the number of Sundays on or during which work is permitted.

In *Belgium*, in the case of retail shops and hairdressers' shops in specified seaside resorts, the exception is limited to six Sundays in the year during the season.

In *Brazil* the banks may, under a collective agreement, carry out urgent and unforeseen work on not more than three consecutive Sundays or ten Sundays in the year.

In *France* retail trading establishments where the weekly rest falls on Sunday as a rule may withhold that rest on not more than three Sundays in the year.

In *Germany* shops may not remain open on more than ten Sundays in the year.

In *Greece*, commercial establishments in towns of less than 40,000 inhabitants may, if necessary, work on not more than four Sundays in a year during the whole or part of the day.

In *Bulgaria*, *Greece*, *Germany* and *Yugoslavia* the regulations provide for exceptions, the extent of which is specified, when the day on which the weekly rest is granted is close to a public holiday.

In *Bulgaria* work is permitted on the three Sundays preceding Christmas, New Year, and Easter.

In *Germany* shops may remain open on the two or three Sundays between 8 and 24 December.

In *Greece* the staff may be required to work on the last Sunday or last Sunday but one in December.

In *Yugoslavia* exceptions as regard the weekly rest are only permitted on the Sundays preceding Christmas and the two days of Bairam, in localities where at least one-third of the population belongs to the religion which keeps these festivals.

Exceptions in the case of fairs or markets are allowed once a year in *Bulgaria* and *Yugoslavia*.

In *Germany* the regulations provide that the staff may be employed for not more than one Sunday in the year for stock-taking purposes.

Number of Days in the Year and of Hours in the Day during which Exceptions are Allowed

Some regulations prescribe not only the number of days on which the exception may be allowed but also the number of hours during which work is permitted on the weekly rest day.

Such limits are prescribed in *Argentina* and *Australia* (Queensland) for the drawing up of balance-sheets and stock-taking, and in *Denmark*, *Hungary*, *Luxemburg* and *Poland* for the selling of goods on a weekly rest day which is close to a public holiday.

In *Argentina* the exception applies to 12 half-holidays in the year, on each of which not more than seven hours' work may be done. In *Australia* (Queensland) the exception applies to two half-holidays in the year, three hours' work being permitted on each.

In *Denmark* work is allowed on the last Sunday before Christmas and on the first Sunday in May and November for four hours a day.

In *Hungary* shops may remain open on the Sunday before Christmas between 7 a.m. and 6 p.m. and on the Sunday preceding or following Saint Stephen's Day from 7 a.m. to mid-day.

In *Luxemburg* the staff of retail shops may work on the Sundays next to public holidays, but on not more than six Sundays in the year. On such Sundays the hours of work are increased from four to ten.

In *Poland* shops may remain open between 1 p.m. and 6 p.m. on the two Sundays preceding Christmas and Easter.

Minimum Length of the Weekly Rest

Some regulations indirectly limit the extent of the exceptions by prescribing a minimum length for the weekly rest.

In *Brazil* and *Italy* the weekly rest may be reduced from 24 to 12 hours in cases of *force majeure* or for seasonal work or for work which is necessary in the public interest.

In *Greece* the length of the weekly rest in seasonal hotels is fixed at 10 hours instead of 24 hours. In *Finland* the weekly rest may be reduced from 39 to 24 hours for stocktaking, closing of accounts, etc.

In *Denmark*, in unforeseen circumstances, the weekly rest may begin at 9 p.m. on Saturdays instead of 8 p.m.

Sometimes the regulations only prescribe a minimum for the number of days on which a weekly rest must be granted. In the *Netherlands* chemists' shops are allowed an exception for arrears of work or special circumstances provided the staff has at least 26 Sundays off in the year. In *Japan* the regulations concerning women and young persons provide that in the event of exceptional pressure of work or other temporary necessity only one day's rest in the month need be granted in shops instead of two days.

§ 2. — Exceptions affecting the Day on which the Weekly Rest is Granted

In several countries it is permissible to grant the weekly rest on some other day than that usually prescribed under the general or special systems, but no change is allowed in the length of the rest.

In the U.S.S.R. the regulations do not provide for any other form of exception. Undertakings may in exceptional cases grant the weekly rest at some other time. In establishments working on the system of uninterrupted operation, the workers may be required to carry out indispensable repairs or other urgent work on the weekly rest day provided they are granted some other day off in the course of the next two weekly periods. This means that the rest must be granted during the next 10 days when the uninterrupted week lasts five days and during the next 12 days when it lasts six. Similarly, in the postal telegraph and telephone service the weekly rest may in exceptional cases be granted at some other time during the next 10 days.

In some countries, such as *Greece*, *Hungary* and *Italy*, the regulations provide that the weekly rest may be granted at some other time when it falls close to a public holiday. In *Greece* food shops and hairdressers' shops may remain open on the Sunday preceding or following certain public holidays, but in such cases the weekly rest must be granted on Friday. In *Hungary* an Order issued in 1938 provides that retail shops may remain open on the Sunday preceding Christmas provided time off is granted in compensation on 26 December. In *Italy* the regulations provide that a day on which work is suspended on account of celebrations may be substituted for the weekly rest on condition that the suspension is for 24 consecutive hours in the week.

Some regulations provide that the weekly rest may be granted at some other time in special cases or in order to meet an extraordinary pressure of work. In *Italy* retail and similar shops may require their staff to work on Sunday for the whole or part of the day owing to temporary circumstances, provided 24 consecutive hours off are granted during the week. In *Portugal* the staff of commercial establishments in which work is permitted on the weekly rest day are as a rule entitled to one day's rest during the three following days.

C. — COMPENSATION

As was stated in the preceding chapter concerning special systems, the workers are in most cases entitled to compensation for work done on the day on which the weekly rest is usually granted. This rule applies also to the exceptions permitted in special circumstances. Only in a few cases do the regulations allow exceptions without providing for compensation. Usually they provide that the workers shall be entitled to compensation in lieu of their rest. Such compensation may take the form of a day off at some later date or of remuneration at a higher rate for work done on the weekly day of rest. Sometimes the worker is given a choice between the compensatory day off and the increased wages, or again both forms of compensation may be granted.

A distinction must therefore be drawn between exceptions for which no compensation is due under the regulations and exceptions for which the regulations prescribe compensation, taking the form, according to circumstances, of a day off, increased remuneration, or both.

§ 1. — No Compensation

The suspension of the provisions concerning the application of the weekly rest does not entitle staff employed on urgent work to compensation in the following countries: *Belgium*, work that is urgent owing to *force majeure*, necessary work that cannot normally be foreseen, and work that is necessary to prevent the deterioration of raw materials or goods; *Germany*, work to be undertaken without notice when urgently required in the public interest or for stocktaking; *France*, *Guatemala* and *Luxemburg*, work required for organising rescue work, preventing imminent accidents or repairing the effects of accidents, but skilled workers engaged in carrying out repairs must be granted compensation.

In a few cases compensation is not withheld unless the exception is shorter than a specified period. In *Germany* work done on Sundays in order to avoid disproportionate economic loss does not entitle the worker to compensation if it does not last more than three hours.

§ 2. — Compensation in the Form of Time Off

The granting of time off in compensation raises a number of problems which have been solved in different ways in the various countries. These problems relate to:

1. the cases or circumstances in which compensation is granted;
2. the length of the compensatory rest;
3. the period within which the rest should be granted;
4. the conditions on which rest is granted.

CASES OR CIRCUMSTANCES IN WHICH COMPENSATION IS GRANTED

In a great many countries time off is granted in compensation whatever the circumstances which justified an exception to the normal system. This is the case in *Argentina, Chile, Norway, Paraguay, Peru, Poland, Portugal, Salvador, Spain, Switzerland, Uruguay, Venezuela* and *Yugoslavia*.

In other countries time off is granted only when exceptions are authorised in certain cases for specified establishments. When these conditions are not fulfilled, the regulations provide either that there shall be no compensation for the exception or that compensation shall take the form of increased remuneration. In *Belgium, Estonia, France, Germany, Great Britain* and *Luxemburg*, the regulations provide for time off in specified cases or circumstances.

In *Belgium* compensation is granted to the staff of shops in seaside resorts when work is done on Sundays to meet special requirements.

In *Estonia* time off is granted in compensation for work done on the weekly rest day in postal, telegraph and telephone services.

In *France* and in *Luxemburg* the workers ordinarily engaged in maintenance and repair work in an undertaking, as also those employed by an undertaking which carries out repairs for the account of an other undertaking, are entitled to time off in compensation for work done on Sundays. In *Luxemburg* the compensation is also due for exceptions granted for economic reasons.

In *Germany* the regulations provide that time off shall be granted in compensation for exceptions which are necessary to avoid serious economic loss.

In *Great Britain*, the performance of urgent work on Sundays in cinematograph undertakings is not deemed to be a breach of the Act if it is established that the persons so employed are granted time off in compensation.

LENGTH OF COMPENSATORY REST

Exceptions mean for the workers the loss of all or part of their Sunday rest. In compensation, the national regulations grant them a rest equal in length to that lost, and sometimes longer in order to take account of the disturbance caused in the worker's daily life; for a man who has to work on Sunday is unable to enjoy a restful day with his family and sometimes has to travel long distances in order to do quite a short job.

The regulations in *Estonia* (postal services), *France*, *Luxembourg*, *Paraguay*, *Poland*, *Portugal*, *Salvador*, *Switzerland*, *Uruguay* and *Yugoslavia* contain a provision in general terms, stating the workers' right to a compensatory rest equal in length to the additional hours worked.

In several other countries, e.g. *Argentina*, *Belgium*, *Germany*, *Italy*, *Peru*, *Spain* and *Venezuela*, the regulations fix the length of the compensatory rest, which is in some cases equal to and in others longer than the time worked; sometimes it is granted by the day or half-day. In some cases it is laid down that workers must in no circumstances be prevented from attending divine service.

In *Argentina* persons who are required to work during the whole of Saturday afternoon and the whole of Sunday must receive an uninterrupted compensatory rest of 35 hours between 1 p.m. on one day and midnight on the following day. Persons who have been required to work for a part only of Saturday afternoon or Sunday must be given a compensatory rest of the same length as the time so worked, reckoned from 1 p.m. on the day fixed for the rest.

In *Belgium* persons required to work four hours on Sunday under exceptions granted to retail shops must receive half a day's compensatory rest for each Sunday worked.

In *Germany* Sunday work exceeding three hours in duration must be compensated by a rest period of not less than 36 hours

on at least one Sunday in every three, or by a rest period of from 6 to 18 hours every second Sunday. Exceptions to these provisions may be granted by the administrative authorities if the workers have not been prevented from attending divine service and have been given a compensatory rest period of at least 24 hours in the course of the week.

In *Italy* persons required to work on Sunday are entitled to a compensatory rest period equal to the number of hours worked; in no case may this period be less than 12 hours.

In *Peru* work authorised on compulsory rest days gives a right to a compensatory rest of at least 24 consecutive hours for each such day worked.

In *Spain* persons required to work on Sunday must be given at least one hour off during the hours of divine service without any deduction being made from their wages. Further, all persons required to work on Sunday, for however short a period, must be given an uninterrupted compensatory rest of 24 hours.

In *Venezuela* workers employed on Sunday for more than four hours must be given a full day's compensatory rest; if the Sunday work lasts less than four hours, half a day's compensatory rest must be given.

Lastly, the regulations of some countries provide that the prescribed rest period may be changed in special circumstances on condition that another system of compensatory rest is applied. Thus in *Spain* the compensatory rest period of 24 hours may be reduced to the number of hours worked on Sunday, or even suspended altogether in exceptional cases, subject to the relevant economic and humanitarian considerations. Such measures may be adopted only by the Government for specified kinds of work, and provision must be made at the same time for other rest periods by way of compensation for the reduction or suspension. Similarly, in *Italy*, when the grant of compensatory rest is rendered difficult by *force majeure*, the corporative inspectorate may exempt an undertaking from the obligation to give the usual minimum of 12 hours' rest and prescribe other arrangements providing sufficient rest for the workers.

PERIOD WITHIN WHICH COMPENSATORY REST SHOULD BE GRANTED

The regulations of most countries define the period within which compensatory rest must be given. This period is generally

a week or less, but in some cases reaches from two to four weeks or even more.

In *Estonia, Paraguay, Peru, Poland, Salvador, Spain* and *Uruguay*, the compensatory rest must be given within the week following the day on which Sunday work was required.

In *Yugoslavia* the rest period must generally be given on the day following the Sunday worked, or, when this is impossible, on the next day.

In *Portugal* the compensatory rest day is fixed by agreement between the parties. Shops authorised to remain open on a certain number of Sundays each year are generally required to give the compensatory rest on one of the three days following the Sunday.

In *France* the period within which compensatory rest must be given is determined by Order and may in no case exceed a fortnight. If the Sunday preceding a legal public holiday is worked, the compensatory rest must be given on this holiday.

In *Switzerland* compensatory rest must be given within four weeks of the day worked. This period may be extended with the consent of the workers concerned when there are strong reasons for such extension. In such cases the workers must be informed of the day upon which they will be given their compensatory rest.

CONDITIONS ON WHICH COMPENSATORY REST IS GRANTED

Various conditions may govern the grant of compensatory rest. It may, for instance, be granted collectively or in rotation. It is rare for national regulations to contain any provisions on this question, which is usually left to the discretion of the employer.

In *Chile* the rest day may be the same for all the persons of an undertaking employed on Sunday, or may be granted in rotation so that the work need not be interrupted.

In *France* it is provided that municipal (prefectural in Paris) orders shall determine whether the rest period is to be given collectively or in rotation.

In *Spain* compensatory rest must, if possible, be granted simultaneously to all workers of an establishment who were employed on Sunday. If this is impossible owing to the nature of the work, the rest may be granted in rotation, but in as few turns as possible.

Another problem which arises in connection with the weekly rest day is that of its coincidence with Sunday. Not all national regulations contain provisions on this point, but in *Germany*, for instance, the Industrial Code lays down that Sunday work in excess of 3 hours must be compensated by not less than 36 hours' rest every third Sunday or by 6 to 18 hours' rest every second Sunday.

§ 3. — Compensation in the Form of Increased Rates of Remuneration

PRINCIPLE OF COMPENSATION

This form of compensation is rare. The regulations of a few countries, including *Australia*, *Brazil*, *Ecuador*, *Estonia*, *Finland* and *Latvia*, provide that work performed, for whatever reason, on the usual weekly rest day must be regarded as overtime and remunerated accordingly.

In *Australia* work on Saturday afternoon and Sunday is as a rule authorised only on condition that overtime rates are paid.

In other countries — *Germany*, *Greece*, *New Zealand* and *Salvador*, for instance — compensation in the form of increased rates of pay is provided for in Decrees, arbitration awards, collective rules, or other forms of regulation, for specified regions or branches of commerce.

In *Germany* the collective rules in force for wholesale and retail trade in Lower Saxony and Pomerania, and for cinemas in Schleswig-Holstein, prescribe increased rates whenever the weekly rest is suppressed.

In *Greece* a Decree applying to hotels operating seasonally provides that work performed on the usual weekly rest day must be remunerated at an increased rate.

In *New Zealand* arbitration awards applicable to shop assistants and persons employed in theatres and cinemas do not allow Sunday work unless remunerated at a special rate.

In *Salvador* work performed on the Sunday rest day in pharmacies and public utility undertakings required to be open on Sunday must be remunerated at an increased rate.

In some countries, compensation in the form of increased remuneration is authorised only in exceptional circumstances. In *Switzerland*, for instance, this form of compensation is

permitted only when the worker's contract expires; he can claim no special compensation if his contract has been terminated prematurely at his request or as a result of some fault on his part.

RATE OF INCREASE

In *Australia, Estonia, Finland, Germany and Greece*, it is usually provided that the increased rate of remuneration for work performed on the weekly rest day shall be time and a half.

In *Australia* (New South Wales and Western Australia) shop assistants must receive double time.

In *Finland* urgent work performed on the weekly rest day in hotels and restaurants gives rise to time-and-a-half rates for the first two hours and double time thereafter.

In *Latvia* the rate is fixed at time and three-quarters and in *Brazil, Ecuador, New Zealand and Salvador*, at double time.

§ 4. — Compensation in the Form of Time Off or Increased Rates of Remuneration

In some countries, such as *Colombia, Germany* and the *U.S.S.R.*, compensation may be given in the form either of time off or increased rates of remuneration.

In *Colombia* persons occasionally required to work on Sunday may choose between pecuniary compensation not less than twice their ordinary rate of pay and a rest period in compensation for the extra work done.

In *Germany* the collective rules applying to wholesale and retail trade in certain regions provide that employees required to work on the usual rest day may either be given equivalent time off or be paid at time-and-a-half rates for such work.

In the *U.S.S.R.* it is laid down that when, in exceptional cases, a worker is employed on his weekly rest day, he shall be entitled to another rest day in the course of the two following weekly periods. Thus if the uninterrupted week is five days, compensatory rest must be given within 10 days of the rest day worked, and if it is of six days, compensatory rest must be given within 12 days. If the worker cannot be given compensation in the form of time off, he must be paid at not less than double-time rates for the extra work. Pecuniary compensation is not permitted in the postal, telegraph and telephone services.

§ 5. — Combination of Both Forms of Compensation

The regulations of some countries provide that compensation shall be given both in the form of time off and in that of increased remuneration.

Provisions to this effect are contained in the regulations of *Australia*, *France* and *Portugal*.

In *Australia* work performed on Sunday in certain branches of commerce other than shops must be paid at double-time rates, even when an alternative day off is given.

In *France*, when in exceptional cases the Sunday rest is not observed in retail trading establishments where the weekly rest falls on Sunday as a rule, the workers must be given a compensatory rest and a wage increase equal to one-thirtieth of the monthly wage or to the value of a day's work.

In *Portugal* workers required in special circumstances to work on Sunday or their usual weekly rest day are entitled to one day's compensatory rest within the three days following, besides being paid double time for work so required. This increased rate can be suspended only with the authorisation of the Under-Secretary of State for Corporations and Social Welfare.

D. — PROCEDURE

The national regulations which exempt certain classes of establishments or activities from the legal provisions relating to weekly rest, or authorise special systems for them, generally lay down no conditions but are automatic in their application.

A certain variety exists in the manner in which the legislation of different countries authorises exceptions to the principle of the weekly or Sunday rest.

Exceptions for accidents, actual or threatened, or in case of *force majeure* cannot by their nature be foreseen, and it is therefore difficult to require an employer who is obliged to depart from the usual time-table for these reasons to follow any special procedure. In general, however, the employer is required to notify the competent authority and to comply with certain formalities regarding records, notices, etc. Sometimes, too, he must obtain the previous consent of the workers.

Exceptions for economic reasons or for reasons of general interest, and those of a periodical character, are generally

intended to meet recognised urgent needs, and are therefore often granted automatically. In many cases, however, they are governed by special provisions of the legislative or administrative authorities — Orders, regulations, etc. In several countries employers making use of these exceptions must notify the competent authority and post up in their establishments the relevant regulations or Orders.

Finally, the legislation of a certain number of countries provides for the supervision of the circumstances in which work is in fact authorised on the weekly rest day, and lays down that exceptions, particularly those for extraordinary pressure of work, may only be used subject to previous authorisation by the competent authority. Sometimes it requires also the previous consent of the workers and the fulfilment of formalities such as the keeping of records.

Provisions regarding exceptions may thus be classified under three heads as regards the procedure laid down for their use:

- (1) exceptions permitted automatically under the law;
- (2) exceptions permitted automatically under special provisions;
- (3) exceptions requiring special authorisation.

§ 1. — Exceptions permitted Automatically under the Law

The exceptions that an employer can use automatically under the law are generally those intended for organising rescue or salvage work, preventing or repairing accidents, avoiding the deterioration or loss of materials or products or for cases of *force majeure*. Usually certain formalities must be complied with, such as the keeping of records, the notification of the competent authority, and so on. In a few countries it is provided that the competent authority must be informed of the exact reason for the use of the exception, the number of workers and hours of work involved, and the compensatory rest given.

Only in a few countries, such as *Argentina, Chile, Finland* and *Germany*, is exception permitted automatically irrespective of the reasons for its use.

The regulations of many countries, including *Belgium, Brazil, Ecuador, France, Great Britain, Greece, Italy, Luxembourg, Paraguay, Poland, Rumania, Spain, Uruguay* and *Vene-*

zuela, provide that exceptions may be used automatically by the employer in case of accident or *force majeure*.

Formalities consisting of the notification of the competent authority for purposes of supervision are required in *Argentina*, *Brazil*, *Ecuador*, *Finland*, *France*, *Great Britain*, *Greece*, *Italy*, *Luxemburg*, *Poland*, *Uruguay* and *Venezuela*. In most of these countries the competent authorities are the labour inspectors, or occasionally, as in *Greece*, the police. In *Ecuador*, *Great Britain* and *Italy*, the employer may be required to supply the required information within the specified period of 24 hours.

In several countries, e.g. *Belgium*, *Ecuador*, *France*, *Luxemburg* and *Paraguay*, the employer is obliged also to keep a record or post up a time-table giving all necessary information.

Finally the automatic application of exceptions by the employer is sometimes made conditional upon the previous consent of the workers. In *Finland*, for instance, work may be performed on the weekly rest day only with the worker's consent. And in the *U.S.S.R.* exceptions are ordered in writing by the head of the undertaking after the consent of the competent trade union organisation has been obtained.

§ 2. — Exceptions permitted Automatically under Special Provisions

Exceptions intended to meet needs of an economic character or requirements of general interest are frequently provided for by special legislative or administrative measures such as Orders, regulations, etc. These measures apply to specified classes of commercial establishments or activities, in particular, retail shops and hairdressers' establishments. They lay down the conditions under which the employer may make use of the right to work on the rest day, and stipulate in certain cases that the organisations representing the employers and workers concerned must be consulted or even required to participate in the decision. Sometimes works councils and similar bodies must also be consulted. Provisions of this kind are found in a number of countries, including *Belgium*, *France*, *Italy*, *Luxemburg*, *Netherlands*, *Portugal*, *Spain*, *Switzerland* and the *United States of America*.

In *Belgium* a Royal Order provides for exceptions in retail shops and hairdressers' establishments in specified coast resorts.

In *France* the classes of retail trading establishments entitled to apply exceptions to the legal provisions relating to Sunday rest are determined by municipal orders (prefectural orders in Paris) issued after consultation with the employers' and workers' organisations concerned.

In *Italy* the classes of retail establishments and similar undertakings authorised temporarily to work on Sundays are determined by the Prefect after consultation with the *podestà* and the trade organisations concerned. Sunday work may also be ordered by the prefect for reasons of public order, after consultation with the corporative inspectorate regarding the maximum hours and guarantees to be observed.

In *Luxemburg* Sunday work in retail shops is authorised by Ministerial Order referring either to all such establishments or to certain classes situated in specified districts.

In the *Netherlands* exceptions are conditional on general decisions taken by the competent Minister and communicated to the mayors and deputy mayors of all or certain communes of the Kingdom. Exceptions in view of pressure of work or special circumstances may be authorised for shops and pharmacies by the district authority.

In *Portugal* the municipal assemblies may, after obtaining the permission of the chairmen of the competent parish councils, authorise the grant of the weekly rest on a day other than Sunday when such a measure is necessary.

In *Spain* commercial establishments may be authorised to work on Sunday, in view of temporary circumstances, by the local delegation of the Labour Council. The sale of goods at markets, fairs, and pilgrimages is governed by decisions of the Ministry of Labour, Commerce and Industry, taken after consultation with the Permanent Commission of the Labour Council and at the request of the municipal authorities concerned, who must in turn have consulted the employers and workers' associations involved and, if necessary, other competent institutions and authorities.

In *Switzerland* the competent cantonal authorities may authorise temporarily the reduction or suppression of the weekly rest.

Finally, in the *United States* the application of exceptions in cases of necessity is authorised in the State of New York by the Board of Industrial Relations and in the State of Wisconsin by Order of the Industrial Commission.

In several countries special provisions require the completion of certain formalities intended to facilitate supervision, such as the notification of the competent authority, the keeping of registers, or the posting up of notices stating the hours worked on the usual weekly rest day. In *Luxemburg*, for instance, heads of undertakings who require their staff to work on Sunday must communicate to the labour inspector a list of the persons concerned, mentioning the hours of work performed and the days and hours of compensatory rest given; this list must be posted up in a conspicuous position in the establishment.

§ 3. — Exceptions requiring Special Authorisation

In a number of countries exceptions in view of economic requirements, particularly pressure of work, can be applied only subject to special authorisation. This is especially the case when the provisions in question are contained in social legislation fixing both hours of work and conditions as regards weekly rest. The authorities by whom authorisation may be granted vary from country to country, in some being the labour inspectors, in others the police authorities, and so on.

The competent authorities are required to permit exceptions to the normal weekly rest system when good reasons are advanced in the following countries: *Australia* (Queensland), *Brazil*, *Bulgaria*, *Italy*, *Latvia*, *Netherlands*, *Norway*, *Paraguay*, *Portugal*, *Sweden* and *Uruguay*.

The regulations of some countries provide also that certain formalities must be observed, such as the posting-up of the authorisation or the keeping of a record. In *Australia* (Queensland) the written permission must be affixed in a conspicuous position in the shop and must state the number and names of the persons proposed to be employed overtime.

Sometimes the workers concerned or their representatives must be consulted before an application is made for a permit. In *Italy* and *Sweden*, for instance, the organisations of the workers concerned must be consulted.

E. — SUSPENSION OF REGULATIONS OR AUTHORISATION OF EXCEPTIONS FOR REASONS OF STATE

As has already been stated, the national regulations frequently allow exemptions or special systems in order to meet the needs of the community in general. Some kinds of work must, for reasons of public interest, be performed on the day normally devoted to weekly rest. Often, too, the regulations permit exceptions for the purpose of meeting general needs.

In addition to provisions of this kind the laws or regulations of several countries permit exceptions to the normal system or suspension of the regulations in case of serious circumstances endangering national safety or the economic equilibrium of the country. Attention will be directed here only to the provisions contained in the regulations concerning the weekly rest, and not to such exceptions or suspensions as may be allowed, for reasons of State, in virtue of general laws and regulations or of the Constitution.

§ 1. — Suspension of the Regulations

In a few countries, notably *Ecuador*, *France* and *Japan*, the application of the legal provisions relating to the weekly or Sunday rest may be suspended in whole or in part.

In *Ecuador* provisions to this effect are contained in an Act prescribing both hours of work and the conditions as to weekly rest in industrial and commercial establishments. The President of the Republic may suspend the operation of the Act wholly or in part in the event of internal disorder, international war, natural catastrophes or insufficiency of production likely to render imminent a serious economic crisis or to endanger the national safety.

In *France* the legal provisions relating to weekly rest may be suspended temporarily by the competent Ministers in the interests of national defence.

In *Japan* suspension is provided for only in the case of shops. The competent Minister may suspend the application of a part or the whole of the law in case of national need.

§ 2. — Exceptions

The weekly rest legislation of *Argentina*, *Bulgaria*, *Greece*, *Poland*, *Rumania* and *Spain* permits exceptions to the normal system in times of serious public danger. Generally these exceptions must be authorised by special measures such as Orders, regulations, etc.

In *Argentina* the Executive Power may issue regulations authorising exceptions for the above-mentioned reason in commercial establishments in the Federal capital.

In *Bulgaria* exceptions for reasons of State may be permitted by the Minister of Commerce, Industry and Labour.

In *Greece* exemptions may be granted by Decree when required in the public interest, for specified classes of economic activity.

In *Poland* the Government may authorise Sunday work when required for urgent political or economic reasons. This authorisation must be given in the form of an Order of the Council of Ministers, issued after consultation with the Chambers of Industry and Commerce and the employers' and workers' organisations; the period of validity of such an Order may not exceed one year.

In *Spain* services directly connected with the national defence may work on Sunday. Special provisions must be issued by the Government in each case.

CHAPTER VI

ENFORCEMENT MEASURES

All national regulations relating to the weekly rest in commercial establishments, offices and assimilated establishments provide for measures to ensure their proper application. These measures are of two kinds: some aim at the organisation of a system of supervision to ensure that the regulations are observed as they should be, while others are based on the repressive principle and prescribe penalties for infringement of the regulations.

A. — SUPERVISION OF THE APPLICATION OF THE REGULATIONS

In order to ensure that the application of their provisions shall be supervised, the national regulations place certain obligations upon the parties concerned, particularly the employers, and determine the manner in which the supervision is to be carried out.

§ 1. — General Prohibition of Work on the Weekly Rest Day

The regulations of some countries prohibit all work in public on the usual weekly rest day in the establishments covered, even when it is done on the worker's own account. Provisions of this kind are found in *Ecuador*, *Paraguay*, *Spain* and other countries. Moreover, such a prohibition forms the essence of Sunday observance laws.

§ 2. — Obligations on Employers intended to Permit and Facilitate Supervision

The obligations placed on employers with a view to permitting and facilitating the supervision of the observance of weekly rest regulations relate to the establishment, the staff and the supervisory authority.

OBLIGATIONS REGARDING THE ESTABLISHMENT

Purely as a result of custom, a large number of establishments are virtually closed to the public on the usual weekly rest day, being occupied, if at all, only by the persons responsible for looking after the buildings. This applies especially to most establishments in which office work plays an important part, such as banks, insurance institutions, agencies of different kinds, wholesale firms dealing in large or small quantities, and certain classes of retail shops, particularly in large towns. For fear, however, that some establishments, and especially small retail shops, would remain open on the weekly rest day, thus depriving their workers of their weekly rest and competing on unfair terms with establishments which observed the customary practice, the regulations of several countries have explicitly ordered all establishments to be closed to the public on the general weekly rest day unless they are covered by a special system or an exception to the general rule. This is the position in *Argentina, Chile, Colombia* (for establishments employing more than two persons), *Cuba, Denmark, Great Britain, Ireland, Italy, Paraguay, Poland, Portugal, Salvador, Spain, Sweden, the Union of South Africa* (several provinces) and *Yugoslavia*.

Some countries, e.g. *Chile* and *Sweden*, in addition expressly prohibit the sale of goods during the hours the establishment must remain closed.

Some States have very detailed provisions regarding establishments where the trader lives on the premises or where only certain classes of goods may be sold. Thus in *Argentina, Paraguay* and *Spain*, commercial establishments not permitted to work or sell on Sundays must remain closed, but if they have no other means of ventilation than the door and are inhabited by the trader and his family, the door may be left ajar provided that a notice is posted up informing the public that the establishment is not open for the sale of goods. In *Argentina* it is contrary to the law for a person who is not a member of the owner's or manager's family to be in an establishment during the hours it has to remain closed. In *Spain* an establishment ordinarily selling articles whose sale on Sunday is prohibited, and also articles which may be sold on Sunday in virtue of an exception to the regulations, may remain open on that day during the

hours prescribed by the exception, but must post up a list of the articles whose sale is permitted. In *Sweden*, during the hours when certain kinds of shops must not be kept open, the goods in which they deal may not be offered for sale to the public elsewhere without special authorisation.

In *Italy* the obligation to close establishments to the public during the general rest period applies even in cases where the establishment may employ persons for the performance of work which does not involve contact with the public. If an undertaking engages in several branches of activity covered by different provisions with regard to closing, work in public in the branch for which the undertaking should remain closed must remain suspended during the hours prescribed for that branch.

OBLIGATIONS REGARDING THE STAFF

The regulations of some countries require the employer to inform his employees of their legal rights in respect of weekly rest, and in most countries he must inform them either collectively or individually of the day to be taken by each. These obligations overlap, as will be seen later, with those of the employer towards the supervisory authorities.

Posting up of Texts of Laws or Regulations Establishing the Principle of Weekly Rest

In several countries the employer must post up the text of the regulations concerning weekly rest in conspicuous places in his undertaking, so that every member of the staff knows what his rights in the matter are. Provisions to this effect are contained in the Legislation of *Finland* and *Latvia*. That of *Norway* requires the employer to post up all rules and instructions applying to his undertaking which are issued in pursuance of the Act establishing the weekly rest.

In *Great Britain* any shop which remains open on Sunday must post up the terms of any order applying to it under the relevant Act.

In *Turkey* owners and managers of establishments who desire exemption from the Weekly Rest Act must obtain a permit, which they are required to post up.

Notification of Weekly Rest Day

In most countries the regulations require that the worker shall be informed in advance — by one means or another — of the day on which he is to take his weekly rest. This requirement is of special importance in the case of establishments which are authorised, in virtue of special systems or of exceptions, to work on the normal weekly rest day. Some of these may close on another day of the week, all their employees being given that day for their weekly rest. Others may remain open throughout the week, the employees taking their weekly rest in rotation. In the latter case special measures are necessary in order to ensure that every worker is really given the weekly rest to which he is entitled. Sometimes, as will be seen later, it is only for such cases as this that the regulations provide for supervision, implying that cessation of work on the usual weekly rest day is a sufficient guarantee of the proper observance of the law. Finally the notification of the weekly rest day is necessary when exceptions involve a change in the usual timetable.

The date of the weekly rest day may be communicated to the whole staff of an undertaking by a general measure, or separately to each individual.

Collective Notification

Collective notification may concern the whole staff of an establishment, or certain sections of the staff, or only a limited number of individual employees. Its essential feature is that it takes the form of a single text which all affected may consult. It may consist in the posting-up of a time-table, in the keeping of a register, or in the adoption of rules of employment to which the necessary publicity is given.

Time-tables

Contents of the time-table. — The most usual way of informing the persons concerned of the day of their weekly rest is to post up a notice. The document thus posted up will hereinafter be referred to as a time-table, but it may take a number of different forms such as that of a schedule of service, a notice fixing hours, or a roster stating the usual weekly rest day of the whole

staff or, where a rotation system is used, the day — and if necessary the hours — allowed off to each group of employees or each individual employee. Very often the time-table is the same as that used for the supervision of the application of provisions regulating hours of work.

Measures relating to the posting up of a time-table or other document of the kind are in force in a large number of countries, including the following: *Argentina, Australia* (several States), *Belgium, Brazil, Bulgaria, Chile, Colombia, the Dominican Republic, Egypt, Ecuador, Finland, France, Luxemburg, the Netherlands, Paraguay, Portugal, Rumania, Spain, Sweden, Switzerland, the Union of South Africa* (Transvaal), the *United States of America* (various States), *Venezuela* and *Yugoslavia*.

In many of these countries, however, a time-table need not be posted up in establishments whose staff is given its weekly rest on the legal rest day generally observed, but only in those in which work is authorised on the usual rest day and weekly rest is given to the employees in rotation or by way of exception. This is the case in the following countries, among others: *Australia* (Western Australia), for establishments authorised to work on the usual rest day; *Chile*, when weekly rest is taken in rotation; *Colombia*, for staff having to work on Sunday; the *Dominican Republic*, in establishments working continuously or unable to suspend work on Sunday; *Egypt*, for establishments which have not a fixed day for the suspension of work; *France*, in cases of collective rest for the whole or part of the staff, given either on a weekday, or from mid-day on Sunday to mid-day on Monday, or on Sunday afternoon, subject to the grant of compensatory rest, or according to any other special arrangement permitted by the law; *Luxemburg*, for work authorised to be performed on Sunday; the *Netherlands* and *Paraguay*, when weekly rest is taken in rotation; *Rumania* and *Switzerland*, in the case of exceptions to the general system; *Spain*, in the case of collective rest; the *Union of South Africa* (Transvaal), for certain undertakings covered by special provisions; the *United States* (several States).

Posting up of the time-table. — Most of the regulations lay down the conditions to be satisfied as to the posting up of the time-table in order that it may be read easily by the persons concerned: it must be easily legible, be posted in a conspicuous position in a part of the establishment to which the employees have access, and so on.

Preparation, entry into force and amendment of time-table. — Various rules govern the preparation and coming into force of the time-table.

The legislation of some countries stipulates that a time-table is not valid until approved by the authorities responsible for the supervision of the application of the regulations, or — which is virtually the same thing — countersigned by a supervising official. Stipulations of this kind are contained in the laws or regulations of several countries, including *Argentina, Bulgaria, Ecuador, Norway* (rotation schemes) and *Portugal* (in the case of services involving several categories of staff with different time-tables). The *Portuguese* legislation, for example, requires the observance of the following formalities: time-tables submitted for approval must be presented in triplicate and accompanied by the necessary application; two of the copies must be made out on stamped paper, one for filing in the office of the secretariat and the other for return to the applicant after it has been countersigned and attested by means of the impressed seal of the branch officer of the National Labour and Provident Institution or the Labour and Corporations Department; the copy on ordinary paper serves for purposes of supervision.

The measures adopted in some countries — *Chile, Finland, France* and *Luxemburg*, for instance — require only that the time-table shall be communicated to the supervisory authorities before being brought into operation. In *Chile* undertakings desiring to give their employees their rest days in rotation must submit their time-tables to the labour inspector and the municipal authority, who keep a special register recording the nature of the work, the number of employees affected, the reason for the authorisation of the exception, and the manner in which rest is granted.

Among other forms of regulation, mention may be made of that of *Colombia*, under which a list of the employees required to work on Sunday must be posted up at least 12 hours in advance, and that of *Finland*, under which the time-table must be prepared in accordance with a form drawn up by the Minister of Social Affairs.

In *France* an establishment which by way of exception has to do urgent work on the weekly rest day must post up, as long as the exception is being used, a copy of the notice informing the labour inspector thereof.

In *Turkey* an employer wishing to benefit from the exemptions allowed by the law must obtain a permit, which he must post up in the establishment.

In *Rumania*, the *U.S.S.R.*, and a few other countries, the staff takes part in the preparation of the time-table. In *Switzerland* the workers are consulted before the time-table is finally adopted.

For the permanent amendment of the time-table the law of most countries prescribes the same formalities as for its preparation, adding that the workers must be informed in advance of all changes made; in *Chile* a month's notice must be given of any change to be made in the rotation in which the weekly rest is taken.

In a number of countries, including *Australia* (Queensland), *Ecuador*, *France*, *Luxemburg* and *Paraguay*, the law provides that even temporary changes arising from the use of exceptions must be communicated to the workers by means of notices, which must in some cases be accompanied by the permit granted by the competent authority.

Records, Cards, Slips, etc.

The regulations of many countries require the keeping of documents of different kinds — rosters, lists, staff registers, attendance sheets, hours records, employment books, cards, slips, etc. — which the staff must be permitted to consult and which must state the weekly rest day of each employee. Provisions of this kind are contained in the legislation of *Argentina* (registers showing engagements and dismissals of staff and appropriate time-tables); *Australia* (several States) (time books); *Belgium* (registers considered necessary for supervision purposes); *Bolivia* (attendance books); *Brazil* (registers showing rest periods); *Cuba* (registers showing rest periods, whether the hours of work are regular or not); *France* (registers indicating the special arrangements for each employee when the rest is not given collectively to the whole staff either for the whole of Sunday or in some other form provided for by law); *Great Britain* (records of names of employees stating the rest day of each); *Ireland* (staff records giving all information required for application of the law); *Luxemburg* (lists of persons who have worked on Sunday, with mention of the date of the compensatory rest); the *Netherlands* (staff registers); *New Zealand*

(records of the weekly rest day and time books); *Spain* (when the rest is not given collectively, rosters showing the arrangements for persons for whom a special system is in force); *Turkey* (registers for supervision purposes); the *Union of South Africa* (attendance registers or working hours registers, — according to Province); the *United States* (several States) (time schedules); *Uruguay* (attendance registers).

Sometimes these documents need be kept only in special cases, particularly — as under the legislation of *France* and *Spain* — in cases in which the rest is given in rotation.

In several countries the overtime registers required by hours of work legislation may be used for the supervision of work done on the weekly rest day in so far as such work constitutes overtime.

The legislation of *Brazil*, *New Zealand*, *Spain*, the *Union of South Africa* (some Provinces), and other countries stipulates that the documents must be drawn up in accordance with the forms or models prepared by the supervisory authorities; that of *Cuba* requires that they must be approved and countersigned by these authorities. In *Uruguay* the attendance registers are supplied by the National Labour Institution.

Sometimes the workers participate directly in the keeping of the registers, by themselves entering details concerning their hours of work. Provisions to this effect are contained in the regulations of several Provinces of the *Union of South Africa*. In *New Zealand* every hotel and restaurant employee must sign the rest-day record before taking his time off.

Rules of Employment

The regulations of several countries lay down that all establishments or certain classes of establishments — often only those of a certain size — shall draw up rules of employment (sometimes called works regulations), which must give information on conditions of employment and in particular on the weekly rest.

Provisions of this kind are contained in the weekly rest legislation or in special legislation concerning rules of employment in *Belgium*, *Bulgaria* (rules of employment must be posted up in the establishment in the form of a table), *Hungary*, *Luxemburg*, *Mexico*, *Norway*, *Turkey*, the *U.S.S.R.* and other countries.

The regulations of a number of countries contain detailed provisions regarding the method of drawing up these rules. In some countries — *Belgium, Mexico, Norway* and the *U.S.S.R.* for instance — provision is made for the participation of the workers or their representatives in the drafting of the rules. In *Belgium* the Act concerning rules of employment lays down that all new rules and amendments of existing rules must be communicated to the workers concerned by means of a notice before coming into force. In the week following the posting up of the notice, the workers may make whatever observations they desire, either directly or through their representatives on the works' council, in a register which must be placed at their disposal. They may also, within the same period, submit observations regarding the proposed amendments to the labour inspector, who must transmit them to the head of the undertaking. In no case may the proposed rules or amendments come into force until a fortnight after the posting up of the notice. The head of the undertaking must send the probiviral council and the labour inspector a copy of the rules or amendments on their coming into force. In the *U.S.S.R.* rules of employment are prepared jointly by the management and the local sections of the trade union organisations concerned.

In several countries, including *Belgium, Mexico, Norway, Turkey* and the *U.S.S.R.*, rules of employment must be submitted to the competent authorities for approval or for information.

The rules must be posted up in a place in the establishment where all the workers can read them. In *Belgium* every worker is entitled to make a copy of such notice. In some countries — *Norway*, for instance — every worker must be given a copy of the rules of employment.

Other Forms of Collective Notification

The regulations of some countries leave the employer a certain amount of freedom as regards the manner in which he must inform his staff of the day of their weekly rest. In *Spain*, when the rest period is given collectively, notification may take the form of a notice, or any other more suitable form approved by the labour inspector. In *Switzerland* the head of the establishment must provide the means for checking the manner in which he grants rest periods to various employees

in all cases in which he departs from the general system; these means may consist in a schedule, a register, a notice posted up, a code of rules, or any similar document, which must be submitted to the competent authority on request.

Individual Notification

Provisions regarding individual notification are relatively infrequent. They require the employer to provide each of his workers with a book, booklet or card indicating his weekly rest day; these documents remain in the worker's possession.

In *Argentina* undertakings or employers must issue to their staff individual work books, stating also the rest days provided for under the weekly rest legislation. In *Uruguay* the rest periods of persons working in public thoroughfares must be supervised by means of identity booklets, issued by the National Labour Institution, in which mention is made of the manner of giving them their weekly rest. In the *Netherlands* cinema musicians must have with them during their work the rest-day cards issued to them; these cards must show the Sundays on which the holder is employed and the weekdays on which he has a compensatory rest; they must be produced immediately at the request of a supervisory official.

OBLIGATIONS TOWARDS THE SUPERVISORY AUTHORITY

All the above measures requiring that the workers shall be informed of their weekly rest day at the same time constitute a means of requiring the employer to put at the disposal of the supervisory authorities information which will facilitate their work. Further obligations, however, are placed upon employers for this purpose.

In several countries, as has already been shown, employers must send copies of their time-tables or other such documents to the supervisory authority, to enable it to ascertain whether the law is being observed. Sometimes these time-tables or other documents are not valid unless approved by the supervisory authority.

In many countries an employer may benefit by special systems or exceptions only after special formalities have been observed: he may have to inform the supervisory authority in advance that he means to make use of a particular system

or exception, or he may have to notify it that he has done so, and in some cases he must obtain a permit.

In some countries employers are required to keep certain documents for a specified time, so that the supervisory authority can check the observance of the law retrospectively. Thus, in *Great Britain* the records, relating to any month, of the names of the employees, stating the rest day given to each, must be preserved by the employer for a period of not less than six months from the end of that month.

Employers are further bound to afford the supervisory authority responsible for the inspection of their undertakings all necessary facilities for the full exercise of its rights (which are described on a later page).

The regulations of a few countries, such as *Bulgaria*, *Norway* and *Sweden*, require employers to keep inspection registers in which the supervisory authorities may enter their observations.

§ 3. — Obligations on Workers

The regulations of some countries place obligations upon the staff in order to facilitate supervision. In the *Netherlands*, as has already been stated, cinema musicians must carry with them a card showing the Sundays on which they work and the weekdays on which they are given compensatory rest. In the *Union of South Africa*, (Cape of Good Hope, Orange Free State and Transvaal) employees must enter certain particulars regarding their hours in their working hours' registers or attendance registers.

Workers, like employers, are generally bound to give the supervisory authority whatever information is required of them regarding the application of weekly rest regulations.

§ 4. — Supervision

The supervision of the application of weekly rest regulations is carried out by the competent authority, which is given special rights and powers to enable it to perform its work effectively. Sometimes the persons concerned are allowed to participate, either directly or through their trade organisations;

and sometimes third parties are allowed to intervene on observing any violation of the law.

AUTHORITIES RESPONSIBLE FOR SUPERVISION

The supervision of the application of weekly rest regulations is generally entrusted either to the labour inspectorate, or to the police authorities or — occasionally — to some other authority.

Labour Inspectorate

Very many countries have a labour inspectorate whose principal function is to ensure the observance of regulations concerning conditions of work in general, or in some of the classes of establishments considered in this Report. The enforcement of legal provisions with regard to the weekly rest comes automatically within the sphere of competence of labour inspectorates¹. This is the case in particular in *Argentina, Australia* (several States), *Belgium, Brazil, Bulgaria, Chile, Colombia, Cuba, the Dominican Republic, Egypt, Ecuador, Estonia, Finland, France, Germany* (Prussia), *Greece, Guatemala, Ireland, Japan* (inspectors appointed by administrative authorities), *Latvia, Lithuania, Luxemburg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Rumania, Spain, Sweden, the Union of South Africa* (several Provinces) (inspectors appointed by local or administrative authorities), the *United States, Uruguay, the U.S.S.R. and Venezuela*.

Police Authorities

The police play an important part in the enforcement of weekly rest regulations. The measures for the actual application of special systems, exceptions, and in particular the provisions concerning Sunday closing, are very often taken by the local authorities, and it is natural that these authorities should have recourse to the police for the supervision of the

¹ Detailed information on the organisation of labour inspectorates and their special powers will be found in the report on item I on the agenda of the Twenty-sixth Session of the Conference: *The Organisation of Labour Inspection in Industrial and Commercial Undertakings*.

application of the measures they prescribe or for whose enforcement they are responsible.

Police supervision is of particular importance, for police authorities are in direct and constant contact with the establishments situated in their locality, whereas labour inspectors are responsible for much larger areas; this means that police supervision can be more effective than supervision by the labour inspectorate.

The term "police authorities" is used differently in different countries, denoting sometimes municipal police, sometimes police superintendents, sometimes rural police, sometimes special constables, and so on.

The legislation of the following countries places upon the police authorities the task of supervising the application of weekly rest regulations: *Australia* (South Australia and Tasmania), *Bulgaria*, *Chile*, *Colombia*, *Finland* (as regards opening hours), *Germany* (except Prussia), *Guatemala*, *Hungary*, *Ireland*, *Lithuania*, the *Netherlands*, *New Zealand*, *Paraguay*, *Rumania*, *Turkey*, the *Union of South Africa* (several Provinces), the *United States* (generally) and *Yugoslavia*.

In some countries, such as *Argentina*, *Finland*, *Greece*, *Portugal*, the *Union of South Africa* (Transvaal) and *Venezuela*, the police authorities may be called upon to assist the labour inspectorate in the performance of its duties.

Other Authorities

The legislation of some countries entrusts the enforcement of weekly rest regulations to authorities other than the labour inspectorate or the police, or at least gives them the right to draw up reports or notify the competent services of any observed contraventions of the regulations.

The authorities permitted to participate in supervision in this way are as follows: *Brazil* — any public official; *Bulgaria* — organs of chambers of commerce or industry, and mayors; *Chile* (druggists' shops and pharmacies) — health inspection services; *Colombia* — mayors; *Cuba* — any public servant; *Great Britain* — local authorities; *Hungary* and *Japan* — administrative authorities; *Lithuania* — district heads and mayors; *Norway* — local labour boards; *Rumania* — district prefects, presidents and secretaries of chambers of labour or of industry and commerce, public prosecutors, examining

magistrates, mayors, notaries and administrative officials; *Sweden* — local inspection services; the *U.S.S.R.* — labour protection boards set up under the works councils of establishments employing 50 or more workers; *Venezuela* — officials of the National Labour Office; *Yugoslavia* — any organisation or chamber concerned.

In some countries these authorities carry out their supervisory duties through inspectors whom they designate for the purpose or through the police; this is the case, for instance, in *Great Britain, Hungary, Japan* and various Provinces of the *Union of South Africa*.

In *Switzerland*, under the Federal Weekly Rest Act, the cantonal governments take the measures necessary for the administration of the Act. Supervision of the observance of the weekly rest is carried out by the cantonal authorities and may be entrusted by them to the labour inspection services. The Federal Council, acting through the Department of National Economy and the Federal Office of Industry, Arts and Crafts, and Labour, exercises supreme supervision over the administration of the Act; it may also issue binding instructions to the cantonal authorities. The Federal Office may have establishments which are covered by the Act or can be brought under it inspected by its officials.

POWERS OF SUPERVISORY AUTHORITIES

The authorities responsible for the enforcement of the law are given various powers, of which only a brief summary will be attempted here.

As has already been stated, time-tables and all other documents drawn up by the employer for supervision purposes, as well as any amendment made in them, must in some countries be communicated to the supervisory authority for information, and sometimes for approval.

The supervisory authority must also be informed of the use made by employers of the provisions of the law relating to special systems and exceptions. In some cases use may not be made of these provisions without previous authorisation.

In order to perform its duties, the supervisory authority generally has the right of free access to establishments, and the right freely to inspect establishments, that is to say, to interrogate and examine workers and employers and to examine

time-tables, records and other documents which the undertaking is required to prepare or keep for the purpose of supervision.

As a rule the supervisory authority also has power to note and report offences, these reports being presumed, according to the legislation of many countries, to be a true statement of the facts until the contrary is proved; it may also warn persons guilty of offences, or institute proceedings against them.

The legislation of several countries empowers the supervisory authority to close establishments found open in violation of the weekly rest regulations, and to prevent sales during prohibited hours.

Finally the legislation of a few countries empowers the supervisory authorities, or at any rate those of a certain rank, to impose penalties in cases of contravention.

PARTICIPATION OF WORKERS IN SUPERVISION

The legislation of some countries provides for the workers' participation, in one form or another, in the supervision of the application of weekly rest regulations. Either individual workers may be associated in the work, or else the workers' associations through their accredited representatives.

As has already been stated, the workers in some countries take part in the preparation of time-tables and rotation schemes and in the keeping of certain documents.

They may also take part in certain supervisory work or notify the authorities of offences, and demand legal proceedings. Thus in several *Australian* States the accredited representatives of the workers' unions have free access to the establishments and their records. In *Brazil* any commercial employee, being a member of a trade union, who observes a manifest contravention of the regulations may draw up a report and submit it to the competent authorities. In *Bulgaria* the trade union federations have supervisory powers. In *Ireland* any employee in relation to whom the employer has committed an offence under the Act, or any official of the registered trade union to which he belongs, may prosecute the employer. In *New Zealand* several arbitration awards provide that the secretary and president of the union concerned, or a person appointed by the union, shall have power to inspect time books, interview workers, and make any enquiries necessary to ensure the efficient operation of

the award. In *Portugal* the national trade unions (and the national employers' associations) must inform the labour inspection authority of cases in which legal provisions are disregarded, and see that they are observed by their members.

INTERVENTION OF THIRD PARTIES

The regulations of several countries, such as *Chile*, *Cuba*, the *Dominican Republic* and *Yugoslavia*, provide that any person may notify the competent authorities of any offence that may come to his notice. In *Colombia* offences can be proved by the evidence of at least two witnesses.

B. -- PENALTIES

§ 1. — Offences subject to Penalty

An employer may be punished not only for having failed to give his staff their weekly rest, but also for having failed to observe other regulations relating thereto, such as those regarding the closing of the establishment, the sale of goods on days the establishment is closed, the sale of goods whose sale is forbidden, the posting up of the time-table, the keeping of records; and for making false statements or entries or failing to comply with the prescribed formalities, such as those referring to the communication of documents to the supervisory authority, application for permits, notification of the use of exceptions, etc.

A worker may be punished for exercising his trade under another employer on his weekly rest day, making false statements or entries, etc.

Further, any obstruction, whether by an employer, a worker or any other person, of the duly authorised supervisory officials in the performance of their duties constitutes an offence.

§ 2. — Persons liable to Penalty

The responsibility for offences relating to weekly rest generally lies with the employer, who may be the owner or director or manager of the establishment concerned. The

regulations of some countries make the owner of the establishment responsible even if he does not administer it personally. In *Egypt* the owner of the establishment is considered responsible if the circumstances are such that there is reason to suppose that he must have been aware of the facts constituting the contravention. In *Germany* the owner is held responsible if he can be shown to have been negligent or at fault in superintending or choosing the persons responsible for managing the establishment. In *Mexico* members of the board of directors and managing directors and managers of commercial companies who are deemed to be employers are considered jointly liable. In *Poland* the owner is liable jointly with the manager if he was privy to the commission of the contravention, or if he has not appointed a suitable manager; if the owner has not appointed a manager, it is he who is liable. If the owner of the undertaking is a body corporate, the persons competent to represent the interests of the body corporate are liable.

According to the legislation of some countries, the responsibility for contravention lies not only with the persons who authorise the work — the employers — but also with those who perform it — the workers. This is the case in *Cuba*, *Hungary* (hotels and restaurants), *Ireland*, *Rumania* and other countries. In *Rumania*, however, the grounds for a judicial decision given in 1935 suggest that a worker, unless in charge of the undertaking or replacing his employer, cannot be punished for working outside legal hours in obedience to his employer's instructions. In *Greece* employees who voluntarily work outside the legal hours are guilty of a contravention. In *New Zealand* and various Provinces of the *Union of South Africa*, commercial employees who offend against provisions relating to the keeping of records are liable to penalty. In *Switzerland* a penalty may be imposed upon any worker who performs work in his trade for a third party during his weekly rest period. In *Ecuador*, *Paraguay* and *Spain* any person who on the weekly rest day works in public on his own account in an establishment covered by the weekly rest legislation is liable to penalty.

In some cases, as in *Denmark*, customers who make purchases when sales are prohibited on account of the weekly rest are also liable to penalty.

In general, any person obstructing the duly authorised supervisory officials in the exercise of their duties may be punished.

§ 3. — Authority Responsible for Application of Penalties

When a contravention is noted by the supervisory authority, the responsible parties may be punished according to the procedure laid down by the competent authorities. These authorities differ from one country to another, being either the judicial authorities -- police courts, correctional courts (particularly for repeated offences) — or the administrative authorities, or the labour inspection services, or the police authorities.

§ 4. — Nature of Penalties

In addition to the moral or religious penalties, which consist in the reprobation of persons who fail to respect the principles of their religion or established custom regarding the prohibition of work on rest days, persons guilty of offences of weekly rest regulations may be punished under civil law.

The most usual form of penalty is the fine, the amount of which varies a great deal from country to country and depends on the nature of the contravention, attendant circumstances (a repetition of the offence nearly always constituting an aggravating circumstance), the number of persons involved, the size of the establishment (generally measured by the number of workers employed in it) and other factors. The regulations of some countries appropriate the amount of the fine to social schemes for the benefit of the workers.

Several national regulations prescribe imprisonment as an alternative to a fine, or in addition to a fine. In many cases failure to pay a fine, and sometimes repetition of the offence, is punishable by imprisonment.

Penalties of other kinds may also be found. In *Colombia* an employer ordinarily employing more than two persons who repeats his offence may be compelled to close his establishment for a period of not more than one month. In *Cuba* employees who work on the weekly rest day may have that part of their wages which is earned during such time confiscated. In *Denmark* any person who is authorised to carry on his business during general closing hours, and who is found guilty on more than one occasion of extending the business beyond the limits permitted by the authorisation, may have this authorisation withdrawn; this provision is not applicable to pharmacies.

In *Italy* contraventions of the Sunday Rest Act by undertakings engaged in the publication and sale of newspapers and similar undertakings are punishable by very heavy fines and the confiscation of the newspaper or other publication. If the offence is repeated, the newspaper may be suspended for a specified period. In *Paraguay* any trader authorised to open his establishment on Sunday who refuses to comply with the instructions of the competent authority, or sells goods when their sale is forbidden, forfeits the benefit of the exception and cannot recover it except by means of a special procedure of appeal to the Ministry of the Interior.

CHAPTER VII

CONCLUSIONS AND COMMENTARY ON THE QUESTIONNAIRE

The following conclusions are based on the existing law and practice on the weekly rest in commerce and offices in the various countries as described in the previous chapters. These conclusions constitute an explanation of, and commentary upon, the questionnaire which will be found at the end of this Report.

I. — *FORM OF THE REGULATIONS*

The first question to be settled is whether the international regulations contemplated should take the form of a Draft Convention or of a Recommendation.

In considering this question it is necessary to take account of the history of the problem of the weekly rest before the International Labour Organisation.

In the Constitution of the International Labour Organisation it is recognised in Article 41 that the adoption of a weekly rest is one of the methods and principles for regulating labour conditions which all industrial communities should endeavour to apply so far as their special circumstances will permit.

This principle has received international application as regards persons employed in industrial undertakings by means of the Weekly Rest (Industry) Convention, 1921 (No. 14), adopted by the International Labour Conference at its Third Session. As regards commercial establishments, the Conference at the same session adopted Recommendation (No. 18).

In the Committee of that Session of the Conference, a long discussion took place on the form of the international regulations then contemplated on the weekly rest in commercial establishments. Opinion was divided as to whether the Committee's decision on the subject should take the form of a Draft Convention or a Recommendation. When a motion on this point was put to the vote 16 members of the Committee voted for a Draft Convention and 16 against, with one abstention.

After further discussion and another vote, the Committee decided that the regulations should be given the form of a Recommendation.

The Committee placed on record in its second report to the Conference that many, if not most, members of the Committee would have preferred a Convention, but realised the existing inadequacy of national legislation on this matter. When the Recommendation was adopted they expressed the expectation and even the conviction that the Recommendation then accepted would, after a period, be reconsidered by a future Conference and embodied in a Convention.

In accordance with the hope expressed in 1921, the question of the weekly rest in commerce and offices again appears on the agenda of the Conference.

In the 18 years that have intervened a progressive development has taken place in national legislation on this matter. As the previous chapters have shown, legislation of a more or less comprehensive character now exists in some 50 countries.

In view of these considerations, it would not appear necessary to contemplate the alternative of giving the form of a Recommendation to the new international regulations now envisaged.

Governments are therefore requested to state whether they consider it desirable that the International Labour Conference should adopt, in the form of a Draft Convention, international regulations on the weekly rest in commerce and offices.

II. — *SCOPE*

SCOPE AS REGARDS ESTABLISHMENTS

§ 1. — Method of Determining Scope

MAIN CRITERIA USED

Three main criteria are used by the national regulations to determine their scope — the establishment, the work done therein, and the persons who perform this work. One of these is usually selected as the principal criterion for determination, the choice depending largely on the nature of the regulations themselves.

The establishment is chosen as the principal criterion of determination by the large majority of regulations whose object

is to provide workers with a periodical rest. This applies also to regulations on the closing of shops.

The work normally done, and prohibited on the periodical rest day, is used as the principal element for determination above all by regulations concerning Sunday observance, the object of these regulations being to prevent certain activities on that day. It is, however, a short step from the idea of the work done to that of the establishment in which such work is the principal activity; the sale of goods corresponds to the commercial establishment, the provision of food and drink for consumption on the premises corresponds to the restaurant or public-house, the care of the sick corresponds to hospitals, etc.

The persons covered are used as the principal criterion of determination by a number of regulations concerning the weekly rest; the "workers", "employees", etc., are then referred to, without mention of the establishments.

From the social point of view it is no doubt preferable to cover the establishment rather than the work. The regulations then apply to the whole of the staff of the establishment, defined by means of its principal activity, whatever the individual occupation of each employee. The idea of the persons covered must then be introduced jointly with that of the establishment. This is the method usually followed hitherto by the various international Conventions on hours of work and by the Weekly Rest (Industry) Convention, 1921 (No. 14).

DETERMINATION BY ENUMERATION

In order to define their scope as regards establishments, many regulations use a general formula, whereas others enumerate the classes of establishments covered.

When the scope is defined by means of a general formula, this consists of such expressions as "commercial establishments", "commerce", "commerce and offices", "commercial activities" or "premises where commercial operations are carried on". The same expression may have a wider meaning in one country and a narrower in another; for instance, "commercial establishments" may mean retail trading establishments only or all wholesale and retail establishments; hotels, restaurants and public-houses may be added to either of the two groups; and the term may even be taken to include offices, theatres and places of public amusement, and hospitals —

tions themselves; and elsewhere the existence of numerous legal decisions shows how many different interpretations are possible. Still wider divergencies would occur as between the different countries if the international regulations were content to use such comprehensive phrases without defining their scope. The need for precise specifications became clear during preparation of the Hours of Work (Industry) Convention, 1919 (No. 1), in which the expression "industrial undertakings" was defined by the enumeration of the activities covered; and the same method was followed in Convention No. 14 concerning the application of the weekly rest in "industrial undertakings". It therefore seems advisable to proceed in a similar way in the drafting of regulations concerning "commerce and offices".

Governments are accordingly consulted on the inclusion of "commercial establishments", comprising establishments engaged wholly or mainly either in purchase or sale at wholesale or retail of goods of any kind, or in the provision of personal services.

With this formula, undertakings assimilated to commercial undertakings (hairdressers' establishments, beauty parlours, bathing and massage establishments, etc.) can be included with wholesale firms and retail shops.

Offices

Offices are covered by the regulations of a general character. Others, of more restricted scope, relate to specified kinds of offices such as those of solicitors, notaries and bailiffs, banks, pawnshops, and the administrative and editorial offices of newspapers. Some regulations, whose scope is defined by the occupations covered, apply more particularly to clerks of all sorts.

Though offices are covered by the general regulations on the weekly rest or Sunday observance, they are not as a rule covered by shop closing regulations, the word "shop" being understood as meaning a retail trading establishment; but there are exceptions to this last rule.

Regulations on the weekly rest, when they apply to offices as a whole, do not provide for the exclusion of any special class of such establishments. On the other hand, the Sunday observance laws and those relating to the closing of shops which also cover offices usually exclude from their scope offices meeting the essential needs of travellers (travel and tourist agencies,

offices of shipping companies, money changing offices, etc.) as well as press agencies and newspaper editorial offices and — in exceptional cases — the offices of public funds of a social character (savings banks, unemployment, sickness and pension funds, etc.).

To sum up, it may be said that in the great majority of countries office staffs receive a weekly rest in virtue of regulations.

The word "offices" may be interpreted in a more or less comprehensive way. Taken in its widest sense, it includes the following: banks and other establishments for credit or exchange; insurance companies; pawnshops; savings banks; pension and superannuation funds, unemployment funds and other public funds of a social or co-operative character; business offices; the offices of shipping companies; travel and tourist offices and agencies; commercial information offices; press agencies and the administrative and editorial offices of newspapers; the headquarters of industrial companies and all public and private administrative offices.

Naturally, the expression "offices" is interpreted in different ways in different countries. The position is similar to that arising with regard to "commercial establishments" mentioned above; for the same reasons it seems necessary to define exactly the meaning of the expression by mentioning the activities it covers.

Governments are asked to give their views on the inclusion of "offices, including establishments engaged wholly or mainly either in the insurance, negotiation, loan or administration of goods of any kind, or in the provision, distribution or transmission of news or information of any kind."

Hotels, Restaurants and Similar Establishments

These establishments are closely related to commercial establishments selling foodstuffs at retail; the goods are consumed on the premises, besides which hotels provide lodging.

This relationship has led to the inclusion of hotels and restaurants in the scope of many regulations on shop closing or the weekly rest in commerce; they are also necessarily covered by regulations of a general character. Nevertheless, the peculiar — and in particular, the permanent — nature of

the needs to be satisfied involves special conditions of employment. The result is the introduction either of special provisions in the framework of a general system, or of separate regulations.

Two factors further complicate the situation from the point of view of legislation. First of all, the term "restaurant" or any similar expression may be taken to include establishments of the following sorts: clubs, etc., catering for a strictly private circle of customers; railway refreshment rooms, which are sometimes managed by the railway companies; restaurant-cars, the staff of which is subject to conditions very similar to those of the travelling staff of the railways; theatre refreshment rooms, which form part of establishments whose main activity is of a very different character; dance halls, night-clubs, etc., which consist essentially in a combination of an entertainment establishment and one for the sale of drinks. These various types of establishments with special characteristics are frequently excluded from the regulations. They are covered only by those applying either to all establishments, or to all the workers of a country, or again to a special class of establishments of the sort in question.

The second factor which tends to complicate regulation is the kind of drink sold. In many cases the prohibition of sale on Sundays applies to intoxicating spirits.

Governments are consulted on the inclusion of "hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses."

Curative and Similar Establishments

Curative and similar establishments — i.e. hospitals, homes, clinics, sanatoria and other places for the treatment or care of the sick, infirm, mentally unfit and aged, women in childbirth, destitute persons, orphans and others in need — are less frequently covered than other "commercial" establishments and offices. All the regulations concerning Sunday observance exclude from their scope the care of the sick, as they do the provision of medicaments and surgical appliances.

The exclusion of hospitals is due, no doubt, to the urgent character of the services which they are required to render, at any hour of the day and week, and to the nature of their activity, which is only partially commercial.

Though the special conditions under which these establishments operate have led to their exclusion from various general

regulations, these conditions have also led to the issue of special regulations either for such establishments or for nursing staff.

Governments are consulted on the inclusion of "establishments for the treatment or care particularly of the sick, infirm, mentally unfit, aged, destitute, or of orphans".

Theatres and Places of Public Amusement

Establishments, whether public or private, providing entertainments are covered by general regulations concerning the weekly rest, by a number of regulations on Sunday observance, and by a few special regulations. On the other hand, in some countries these establishments are not covered by the regulations of a more or less restricted character concerning the weekly rest.

The majority of these establishments operate on Sundays. Nevertheless, recent regulations on the weekly rest show a clear tendency to include them in their scope, though special systems are laid down to enable them to operate on all the days of the week.

Governments are consulted on the inclusion of "theatres and places of public amusement".

Sports Establishments

Sports establishments — sports grounds, physical training schools, gymnasias, boxing and fencing rooms, etc. — are covered by general regulations concerning either the weekly rest or Sunday observance, but no regulations of a limited scope appear to have been issued with respect to them.

Governments are consulted on the inclusion of "sports establishments".

Educational Establishments

This expression covers such public and private establishments as: (1) schools and colleges of all sorts; (2) museums, libraries, art galleries and other centres of general culture. These establishments are only covered by regulations of an absolutely general character. Other regulations either do not include them or make formal provision for their exclusion.

The staff of schools and colleges of all sorts consists primarily of teachers, who can hardly be assimilated to employees in other establishments. It would perhaps be inadvisable to include schools and colleges in the scope of the international regulations, and for this reason no question is put to Governments regarding their inclusion. Nevertheless, should Governments have a different opinion, Question 4, which is of a general character, would permit them to give expression to it.

As regards the second group of educational establishments, comprising museums, libraries, art galleries and other centres of general culture, the situation is different. The activity of employees responsible for the maintenance and operation of establishments of this sort is not comparable to that of teaching staff. On the contrary, many of them do work analogous to that arising in commerce and offices in general; they perform, for instance, the duties of secretaries, watchmen or cleaners. The application of the weekly rest to the staffs of these institutions would appear to give rise to no practical difficulty. Moreover, though national legislation does not always apply to the establishments in question, private regulations or simple custom do in fact secure a weekly rest day for their staff.

Governments are therefore consulted on the inclusion of "museums, libraries, art galleries and similar establishments".

Other Classes of Establishments

In order to leave open the possibility of including other classes of establishments than those mentioned in the preceding paragraphs (and dealt with in Question 3), a general question is put to Governments on the application of the international regulations to other classes of establishments.

POSSIBLE EXEMPTION OF CERTAIN CLASSES OF ESTABLISHMENTS OR CERTAIN ACTIVITIES

The very large majority of regulations provide for certain exemptions. The provisions in question relate more particularly to: (a) exemptions of a general character; (b) exemption of certain classes of establishments or activities; (c) exemption of certain work; (d) exemptions based on the size of the establishment; (e) exemptions based on geographical considerations.

These types of exemption are more or less common, some being justified only by considerations of a purely local character. Often the nature of the regulations themselves gives rise to provision for exemptions which would not be justified in the case of regulations with a different object. Thus regulations aimed at securing a weekly rest for workers employed in the trades in question hardly ever make provision for exemptions; when the conditions of operation require special arrangements, the regulations lay down a special system for the type of establishment or work in question. On the other hand, regulations concerning the closing of shops or Sunday observance aim at prohibiting engagement in certain activities on the day in question, but are not concerned — directly at least — with the conditions of work of the employees; as some activities must be pursued on Sunday in order to meet public needs, the regulations provide for the complete exclusion of the establishments in question without arranging a compensatory system for the employees. This is the usual situation.

As the object of the proposed international regulations is to secure a weekly rest for workers in “commerce and offices”, the exemptions provided for in national regulations of the same sort have to be taken into consideration when the international measure is drafted. It does not therefore seem advisable to provide for the exemption of any class of establishment other than certain public administrations, itinerant establishments, and family establishments. Moreover, as just explained, special systems may meet the different cases in which operation must continue on the weekly rest day.

Exemptions based on geographical considerations should, not, it is thought, be mentioned in a general delimitation of the scope of the regulations. Owing to the fact, however, that establishments situated in small localities or in rural areas may have to face problems peculiar to them, Governments are being asked a Question 18 (b) regarding the institution of special systems of weekly rest in “rural areas”.

Lastly, the exclusion of small establishments other than family undertakings occurs too rarely in the various national regulations to deserve further consideration for an international measure.

In any case, if a Government desires to secure provision for exemptions other than those mentioned above, it can give expression to its view, since a general question is put on the

possible exclusion of "classes of establishments other than those mentioned in Questions 5, 6 and 7".

Establishments administered directly by the Authorities

A large number of regulations relate both to public and private establishments of all sorts. Others restrict their scope to private establishments only. Others again apply to public and private establishments in general, but exclude certain classes of public establishments, in particular public hospitals and educational establishments.

The reason why a number of regulations exclude all or some public establishments lies first of all in the special legal position of the persons employed therein, and secondly in the non-commercial character of certain classes of public establishments. Moreover, there is no doubt that the definition of "public establishment" varies from one country to another.

From the point of view of social protection it is clear that workers performing the same duties under similar conditions should have similar rights and safeguards. This is the point of view regularly adopted for the purpose of international labour regulations. The Weekly Rest (Industry) Convention and the various Conventions on hours of work, in particular the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), apply both to public and to private establishments.

If the same principle were followed, the regulations concerning the weekly rest in commerce and offices would therefore apply also to public and private establishments. This is the reason why both groups are mentioned in Question 3.

Previous international regulations have nevertheless introduced restrictions regarding services directly administered by the authorities. It seems advisable to consult Governments on the exclusion of establishments which perform a public service free of charge and involve no competition with any similar establishment of a commercial character. Reasonable as it is to cover shops, hotels, theatres and hospitals operated by the national, provincial or local authorities, just as much as private establishments of the same sort, it is equally logical to permit exclusion of public services properly so-called, in which the staff is engaged in the administration of public authority. This distinction appears on a national scale in most regulations applying to "public and private" establishments,

and has hitherto been introduced into international labour Conventions.

Governments are therefore consulted on the possibility of exempting from the scope of the international regulations public administrations engaged in the administration of public authority.

Itinerant Undertakings

Some regulations provide for exceptions in the case of travelling shows, etc., fairs and markets, the sale in streets, squares and public gardens of refreshments to be consumed on the spot, and of toys, flowers, tobacco, newspapers and other minor articles. Nevertheless the regulations on the weekly rest seldom exclude such establishments, and travelling shows, etc., are almost the only type mentioned in this regard.

Though the staffs of itinerant undertakings are often small and are indeed in many cases limited to the proprietor and his family, there are nevertheless other cases where a genuine wage-earning itinerant staff exists: the circus is a typical instance.

From the point of view of social protection there might be an advantage in subjecting itinerant undertakings to the international regulations. Nevertheless it should be pointed out that supervision of enforcement would be very difficult, particularly for all sorts of travelling shows, stalls, etc.

In any case it seems advisable to consult Governments on the possibility of exempting itinerant establishments from the international regulations.

As an exemption of this type may appear too comprehensive, Governments are also consulted on the limitation of the power to exempt certain classes of itinerant establishments.

Family Undertakings

Provisions concerning the exclusion of family undertakings occur very seldom in the various national regulations. On the other hand, legislation on the weekly rest in some ten countries provides for the exemption of members of the employer's family. This second exemption is more comprehensive than the first, since it involves *ipso facto* that of family undertakings.

Two main arguments are brought forward in favour of the exemption of members of the employer's family. First of

all, in retail trade the employer is often helped in his work by members of his family under conditions which do not justify the assimilation of such persons to employees. Secondly, it often occurs that members of the employer's family have a financial interest in the undertaking or hold important posts — especially as managers or in positions of trust — so that here too there would be no justification in simply assimilating them to employees.

On the other side, in favour of the inclusion of these persons in regulations on the weekly rest, it is argued that exclusion would mean that a large number of persons might lose the benefit of regulations concerning the weekly rest in commercial establishments, and that since the members of the employer's family are often excluded from any regulation concerning hours of work, it is of the greatest importance to them to be secured a weekly rest.

In these circumstances it may appear advisable to provide for the possibility of excluding members of the employer's family, but to limit this possibility to establishments where such persons are alone employed, provided that they cannot be considered to be employed for wages or salaries.

Governments are therefore consulted on the possibility of exempting from the international regulations establishments where only members of the employer's family are employed, in so far as they are not in receipt of a wage or salary.

SCOPE AS REGARDS PERSONS

§ 1. — Application of the International Regulations to all Manual and Non-manual Workers, including Apprentices, in the Establishments covered

The laws and regulations analysed fall into two groups: on the one hand, those which simultaneously cover employers, workers and persons working on their own account, and on the other, those which only cover workers.

The first group includes some regulations that prohibit all persons from working, the few regulations that expressly prohibit work from being done by employers, workers or persons working on their own account, and lastly the many regulations concerning closing hours.

Most of the laws and regulations concerning the weekly rest belong to the second group, that is, they only apply to workers. With a few exceptions they cover all the workers employed in any commercial establishment or office.

In these circumstances, to what class of persons employed in the establishments covered should the international regulations apply ?

It should be pointed out in this connection that the regulations covering not only workers but also employers and persons working on their own account are designed to meet very special needs. Those concerning the Sunday rest are of long standing; their purpose is to meet religious needs rather than to provide the persons to whom they apply with a certain standard of social protection. Others are regulations concerning the closing hours of commercial establishments, and their vast scope is an inevitable consequence of their very purpose. Laws and regulations concerning the weekly rest, on the contrary, prescribe standards of social protection that are applicable with very few exceptions, and their scope is limited to workers.

Since the purpose of the proposed international regulations is to establish, like those which have just been mentioned, but internationally, the workers' right to a weekly rest, and not to deal with shop closing hours, it seems that their scope too should only include workers. Once this principle has been laid down, however, it is worth while considering as wide an application of it as possible, so as to cover all the persons concerned. This, it seems, might be achieved by providing that the international regulations shall apply to all manual and non-manual workers, including apprentices, employed in the establishments covered.

Accordingly Governments are asked to say whether they are in favour of drawing up an international Convention which would apply to manual and non-manual workers, including apprentices, employed in the establishments covered.

§ 2. — Possible Exemptions

Although the great majority of the national laws and regulations lay down the principle of a weekly rest for all the workers employed in the establishments covered, some of them prescribe or permit the exclusion of certain classes of such workers.

The possibility of providing for such exemptions in the international regulations should be considered. In this connection it seems that those reasons for exempting persons which the preceding analysis in this Report has shown to be quite exceptional should be disregarded, while the others should be carefully considered. Those others refer to the exemption of persons holding positions implying special responsibility and of travellers and representatives in so far as they carry on their work outside the establishment.

PERSONS HOLDING A POSITION OF MANAGEMENT OR EMPLOYED IN A CONFIDENTIAL CAPACITY

Although the great majority of the laws and regulations concerning hours of work exclude persons occupied in a position of management or in a confidential capacity, only a dozen enactments concerning the weekly rest provide for the exemption of persons holding positions of management, while half a dozen exclude persons employed in a confidential capacity. When considering the expediency of providing for similar exemptions in the proposed international regulations, it would be well to remember the practical consequences for the workers concerned of their exemption from regulations respecting the weekly rest as well as from hours of work regulations.

In view of the regulations concerning hours of work in many countries, it must be admitted that the staff in question may, because of their exemption from the regulations, be systematically required to work much longer hours on working days than those worked by other staff. In the circumstances, exclusion from the regulations concerning the weekly rest would make their position much worse, since in extreme cases they might have to work seven days a week.

It should be pointed out in this connection that in view of the possibility of excluding persons occupied in a position of management or in a confidential capacity from the scope of international Conventions, the Conference has at various Sessions had occasion to seek and to adopt more and more restrictive clauses, as will appear from a comparison of the Conventions.

In 1919 the Convention limiting the hours of work in industrial undertakings simply exempted persons holding positions

of supervision or management or employed in a confidential capacity.

In 1930, owing to the risk that salaried employees might suffer from the abuse of such a provision, the clause in the Convention concerning the regulation of hours of work in commerce and offices was restricted in two essential respects: on the one hand exemption by the competent authority in each country became optional; on the other hand, the exemption no longer applied to supervisory positions.

In 1931 the Convention concerning the limitation of hours of work in coal mines provided for the exemption of persons engaged in supervision or management, subject to the definitely restrictive condition that they should not ordinarily perform manual work. The Revised Convention of 1935 did the same.

In 1936 the Convention concerning the reduction of hours of work on public works limited the exemption to persons occupying positions of management, the measure being left to the discretion of the competent authority after consultation with the organisations of employers and workers concerned, where such exist.

Finally in 1937 the Convention concerning the reduction of hours of work in the textile industry maintained the principle of optional exemption after consultation with the organisations of employers and workers concerned where such exist, but introduced a new wording, exemption being possible for classes of persons who by reason of their special responsibilities are not subjected to the normal rules governing the length of the working week.

In spite of the efforts made at various Sessions of the Conference to define and restrict the exemptions for staff holding positions of management or employed in a confidential capacity, so far as this was compatible with the state of national legislation, the organisations of professional workers have repeatedly urged that such exemptions should be still further restricted.

In 1935 the thirteenth International Congress of Professional Workers protested against the exclusion of persons holding positions of supervision, trust or technical control from the international regulations on the reduction of hours of work. In 1936 the General Secretary of that Federation submitted a protest on the same point to the President of the International Labour Conference and the Director of the International Labour Office.

At its sixth session in Geneva (1937) the Advisory Committee on Professional Workers pointed out that the workers' representatives had expressed the wish that exemptions should only be contemplated for "persons who carry out managerial duties and share in fact in the profits of the undertaking and are customarily regarded as not subject to the normal rules governing hours of work".

Similarly at the 1938 session of the International Labour Conference, the representatives of professional workers urged that provision for exclusion should be made only in respect of persons holding positions of management and in fact sharing in the profits of the undertakings.

In May 1939, at the seventh session of the Advisory Committee, the representatives of the professional workers' organisations put on record the view that the growing feeling of organised professional workers was against their exclusion from the protective legislation designed to protect workers in general. Any justification for exclusion from the international regulations concerning hours of work in the case of a very small number of highly responsible director-managers was far outweighed by its possible application to many who should certainly be afforded the protection contemplated for other workers. Consequently the representatives of the professional workers' organisations on the Committee held that the definition to be introduced in regulations concerning hours of work should not permit the exclusion of the majority of persons holding positions of supervision or management on the administrative and technical sides. They held that to limit the scope of the exemption, the definition should contain a reference to actual participation in profits or in the general management of the undertaking.

There can be no doubt that when considering their attitude as regards the optional exemption of persons employed in a managerial or confidential capacity, Governments will take into account the situation as outlined in the description of the law and practice on the subject, the results obtained by the International Labour Organisation in limiting the possibilities of exemption, and the views expressed by the Advisory Committee on Professional Workers.

In the circumstances Governments are consulted as to the expediency of providing that the competent authority in each

country be permitted to exempt from the application of the international regulations:

- (i) persons occupied in a position of management;
- (ii) persons occupied in a confidential capacity.

TRAVELLERS AND REPRESENTATIVES IN SO FAR AS THEY CARRY ON THEIR WORK OUTSIDE THE ESTABLISHMENT

In six countries, the laws and regulations explicitly exclude travellers and representatives; in two of these countries, the exclusion also applies to persons collecting payments and to delivery-men.

The reasons given for exempting travellers and representatives are that since they can to a large extent decide how they will use their time, they may work less hard when they are tired, and that it is particularly difficult to supervise the application of the weekly rest in the case of such workers. As regards the first argument, it must be pointed out that representatives, travellers, commission agents and canvassers, are usually remunerated partly or wholly on a commission basis and that accordingly they will be tempted, particularly when business is slack, to make a considerable effort to maintain their earnings, not only on working days but also on the days set aside for the weekly rest. As regards the supervision of application, this may be effected, if not directly, at any rate by checking the order slips or pay-sheets of such workers.

If the exclusion of travellers and representatives were to be allowed in the international regulations, a difficult situation would arise, since dealings with customers, which are to all practical purposes prohibited where establishments are required to grant the weekly rest collectively, would still be possible for those establishments whose travellers and representatives would continue to work. Such a situation would encourage competition that would be detrimental to the very spirit in which the regulations were observed by the persons concerned. Moreover, it must be pointed out that in practice travellers and representatives have no opportunity of doing their work effectively on the weekly rest day since most commercial establishments and offices have to close. In some cases travellers and representatives may visit private customers, but the latter may not be at home on Sundays. The effort made would therefore

be considerable, while very little would be achieved. It is no doubt on such grounds that national legislative authorities have refrained from prescribing the exclusion of travellers and representatives from laws and regulations concerning the weekly rest.

Further, at the seventh session, in May 1939, of the Advisory Committee on Professional Workers, the professional workers' organisation expressed the view that the exclusion of travellers and representatives should only be permissible when such workers are not "obliged to perform exactly prescribed tasks". The objection to exempting travellers and representatives from the scope of the regulations concerning hours of work was that an important and numerous group of workers might be left without any protective limitation of hours at all, and the representatives of professional workers' organisations could not approve of such a situation.

Governments are asked to state their views as to the insertion in the international regulations of a clause enabling the competent authority to exempt travellers and representatives in so far as they carry on their work outside the establishment.

III. — *GENERAL SYSTEM OF WEEKLY REST*

In determining the general system of weekly rest it is of course understood that it may have to be applied with certain variations in the case of specified classes of establishments or of activities, or in particular cases. In addition there will be circumstances, usually of a temporary character, in which the weekly rest may have to be reduced or suppressed. These cases will be discussed in a later section.

This section will assume that the principle of a weekly rest is recognised and will deal with the intervals at which it should be granted, the day on which it should fall and the minimum period of the weekly rest.

INTERVALS AT WHICH THE WEEKLY REST IS GRANTED

The legislation of almost every country recognises the principle of an uninterrupted period of weekly rest at least once in every period of seven days. This practice is also in most countries established as a result of religious precept or of custom.

Even in countries in which there is no legislation providing for a weekly rest in commercial establishments the practice of granting it is already widely adopted and is tending to spread to additional classes of activities.

It would therefore seem that the Governments should be asked whether the international regulations should provide for the principle of an uninterrupted weekly rest in every period of seven days.

DAY ON WHICH THE WEEKLY REST IS GRANTED

In order that a worker should derive full benefit from the weekly rest it has been found desirable that he should be able to enjoy it on the same day as most other workers and the principle of the simultaneity of the weekly rest has been very widely recognised in practice. The analysis of the legislation given in an earlier chapter of this report has shown that the great majority of the regulations stipulate that the weekly rest should be granted on Sunday. In addition Article 41 of the Constitution of the International Organisation also establishes the principle that the weekly rest should "include Sunday whenever practicable".

It must nevertheless be recalled that in certain non-Christian countries the day of weekly rest may by custom occur on Friday or some other day and that this day may sometimes vary according to the religion or the custom prevailing in the various districts or regions of the same country.

The Convention and the Recommendation of 1921 took account of this fact and indicated that the day of weekly rest should wherever possible be granted simultaneously to the whole of the staff of each establishment and that it should wherever possible be fixed so as to coincide with the days already established by the traditions or customs of the country or district.

The Office therefore proposes to ask Governments whether they approve of this principle.

THE MINIMUM PERIOD OF WEEKLY REST

Once the principle of the weekly rest has been recognised, its minimum length still has to be determined.

The legislation of all the countries examined in this Report provides as a general rule for a weekly rest of at least 24 hours.

This period is also that mentioned in Article 41 of the Constitution, and in the Convention and Recommendation adopted in 1921. Governments are therefore being asked whether they consider that the international regulations should fix the minimum length of the weekly rest at 24 consecutive hours.

This period of 24 hours should, however, be regarded definitely as a minimum, and the rest is in practice usually longer. The analysis of the regulations given in this Report shows that in a considerable number of countries the legislation provides for a longer period of weekly rest. This may be the result of regulations explicitly laying down a minimum period of hours exceeding 24 hours and amounting in one case to 43 hours, or of regulations providing for a half-holiday on the day preceding the customary rest day, or of regulations fixing the hours of opening or closing of commercial establishments.

Even in the absence of such regulations, if the whole of the usual rest day is granted from midnight to midnight together with the adjoining periods of night, a period of hours considerably in excess of 24 hours will result. For instance, in the case of a person finishing work at 8 p.m. on Saturday and starting work at 6 a.m. on Monday, the rest period will amount to 34 hours. If a half-holiday is granted as from 1 p.m. on Saturday and work starts again at 6 a.m. on Monday, the rest period amounts to 41 hours.

The desirability of extending the weekly rest beyond 24 hours has also been supported by Governments through the International Labour Organisation. Thus the Conference in 1921 adopted by 45 votes to 18 a resolution inviting "the competent authority of each country to encourage collective agreements between the employers' and workers' organisations in order to fix, whenever the working conditions of the industry, trade or profession concerned permit, a rearrangement of the hours of labour which will allow of an extension of the weekly rest to at least 36 hours".

Further, the Labour Conference of the American States which are Members of the International Labour Organisation, which met at Santiago in January 1936, adopted a resolution suggesting to the Governing Body the desirability of including in the agenda of the Conference the question of the revision of Convention No. 14 and Recommendation No. 18 concerning the application of the weekly rest, so as to make the weekly rest comprise a minimum period of 36 consecutive hours instead

of 24. In view of the fact that a relatively limited number of regulations provided explicitly for this period of rest the Governing Body, however, decided not to open the procedure of revision.

At its last Session in June 1939 the International Labour Conference also gave its approval to a weekly rest in excess of 24 hours. In the Hours of Work and Rest Periods (Road Transport) Convention, 1939, an article has been included providing that every person to whom the Convention applies shall be granted in any period of seven days a period of rest comprising at least thirty consecutive hours, of which not less than twenty-two should fall within the same calendar day.

In view of the movement in favour of granting a weekly rest in excess of twenty-four hours, the Office proposes to ask Governments who approve of a longer weekly rest to indicate the minimum length of uninterrupted weekly rest which they consider should be laid down in the international regulations.

IV. — *SPECIAL SYSTEMS OF WEEKLY REST*

The fact that certain daily needs have to be met prevents any rigid application of the weekly rest, as defined in the preceding chapters, to all the branches of activity covered by the present Report. The Convention of 1921 concerning the weekly rest in industrial undertakings permitted "total or partial exceptions (including suspensions or diminutions)", while the Recommendation adopted at the same Session of the Conference with regard to the weekly rest in commercial establishments provided that each Member might "take the steps necessary... to define any exceptions which the Member may consider to be necessary". In the same way it is essential here to consider the principles on which special systems might be prescribed for certain branches of activity.

The questions put to Governments in this connection refer in the first place to the classes of establishments and activities for which special systems might be prescribed, and secondly to the compensatory systems that the competent authorities in each country would be entitled to provide for.

ESTABLISHMENTS AND ACTIVITIES COVERED

Neither the Convention concerning the weekly rest in industrial undertakings nor the Recommendation concerning

the weekly rest in commercial establishments specifies the branches of activity for which exceptions are allowed. Without wishing to anticipate the contents of the proposed international regulations, the Office believes, however, that it would be expedient to ask Governments for their views both as to the principle of providing for special systems and as to the kind of establishments and activities to which such special systems might apply. The information supplied in the Governments' replies to these questions will help to define the scope of the special systems which Member States would like to provide for in the international regulations.

The first question relates to the expediency of establishing special systems of weekly rest for certain classes of establishments and activities meeting needs which have to be satisfied during the usual weekly rest period in the same way as on working days. This general formula covers all cases in which work is *regularly* done on the weekly rest day. It is supplemented by detailed questions concerning the classes of establishments and activities for which special systems might be provided.

§ 1. — List of Establishments for which a Special System might be Prescribed

The list of classes of establishments in the questionnaire is not restrictive. It mentions the principal classes of establishments for which the national regulations allow a weekly rest system differing from the general system.

Certain commercial establishments come first in the list. In wholesale trade no exception to the normal weekly rest system is needed as a rule, although in some countries wholesale firms dealing in perishable goods are allowed to employ staff on Sundays.

In retail trade, on the contrary, there are special systems for several classes of shops. Nearly all the national regulations provide for special systems to allow the sale on Sundays of certain foodstuffs such as bread, pastry, confectionery, dairy products, drinks, fresh fruit, meat, etc. It seems difficult, however, to insert such a list of products or shops in the proposed international regulations, since the lists contained in national regulations sometimes go into great detail, besides differing considerably from one country to another. It must also be remembered that in some countries a special system applies

to all food shops of whatever kind. That is why the Office is consulting Governments on the wider basis, while realising that in practice the competent authority will usually limit the application of special systems to certain classes of shops.

The same difficulty arises in the case of shops selling commodities other than foodstuffs. Most national regulations provide for a special system applicable to chemists' shops, tobacconists, and shops for the sale of fresh flowers, newspapers and periodicals, and the sale of petrol, oil and spare parts for motor vehicles, bicycles, and aircraft. Sometimes shops selling other articles, such as postcards, souvenirs and photographic requisites, are also covered. The question put to Governments therefore refers to establishments selling goods of prime necessity other than foodstuffs, the competent authority being left to specify the goods in question.

The commercial establishments covered also include those supplying services of prime necessity and more especially undertakers' establishments. It may be pointed out that the travelling staff of such establishments (drivers and assistant drivers of hearses) are covered by the Draft Convention concerning hours of work and rest periods in road transport. The international regulations contemplated in the present Report would therefore only cover the non-travelling staff of such undertakings.

The other classes of establishments and activities mentioned in the list submitted to Governments are the following:

travel and tourist agencies, money-changing offices and the offices of shipping companies;

hotels, restaurants, boarding-houses, cafés, clubs and other refreshment houses;

theatres and places of public amusement;

establishments for the treatment or care, particularly, of the sick, infirm, mentally unfit, aged or destitute or of orphans;

museums, libraries, art galleries and other similar establishments;

sports establishments;

postal and telecommunication services;

newspaper undertakings and press agencies;
hairdressers' establishments;
bath establishments.

These classes of establishments and activities do not call for any particular explanation. A great many national regulations contain special provisions for the organisation of the weekly rest in these various branches of activity.

As regards newspaper establishments, however, reference should be made to a step that was taken at the Third Session of the International Labour Conference, when the Convention concerning the weekly rest in industrial undertakings was being drafted. In the course of the discussion, the Government delegate of Greece proposed that an Article worded as follows should be inserted in the Convention:

Journalists employed on daily newspapers and the auxiliary personnel of such newspapers shall have the benefit of a general weekly rest day of 24 consecutive hours.

No daily newspaper shall appear or be on sale from midday Sunday to midday Monday.

Non-Christian States shall have the right to fix another general rest day in the week.

The amendment was, however, defeated by 51 votes to 25.

§ 2. — Establishments subject to Seasonal Influences or situated in Rural Areas

Another class for which special systems are contemplated in the Questionnaire is that of establishments influenced by seasonal conditions or situated in rural areas.

Special provision is often made for establishments that are dependent on seasonal conditions, particularly in countries where tourist travel plays an important part. In some countries, the provisions only apply to a limited number of establishments situated in specified localities, whereas in others the exceptions to the normal system of the weekly rest apply to all establishments in localities subject to seasonal conditions. The competent authority in each country will have to determine the exact scope of such exceptions.

A fairly large number of national regulations permit special systems for establishments situated in rural districts or other

sparsely populated areas. The term "rural area" suggested by the Office would likewise have to be defined by the competent authority in any country making use of the special provision for establishments situated in such areas. It may be added that where the systems in question are defined, the definition is based on the population of the localities to which the special system may apply, the distances between such localities and large urban centres or railway stations, the means of communication available in the area, etc.

The classes of establishments to which such special systems may apply are usually commercial establishments or certain kinds of such establishments; sometimes the special system applies to banks, hotels, cafés, etc.

§ 3. — Activities for which Special Systems would be justified

A third class of special system contemplated by the Office consists of those applicable to work effected in circumstances justifying permanent exceptions to the general system of the weekly rest.

Governments are asked to express their views as to the institution of permanent exceptions in favour of persons who are engaged either in preparatory and complementary work which must necessarily be carried on outside the limits laid down for the general working of the establishment, part of establishment or shift or in essentially intermittent work. The first class includes persons engaged in the cleaning and upkeep of establishments, since such work has to be done outside normal hours. Persons engaged in essentially intermittent work mainly include hall porters and watchmen, night-watchmen, members of the fire brigade, etc.

The great majority of the national regulations analysed in the documentary part of this Report provide that special systems shall apply to these two classes of workers, and it therefore seems expedient to insert a question dealing with them in the Questionnaire.

With a view to completing the definition of the classes of establishments and activities covered by these three groups of questions, Governments are asked to state whether in their opinion there are other classes of establishments to which a special system of weekly rest should apply.

COMPENSATORY SYSTEMS

Several questions deal with the principles on which special systems should be instituted for the classes of activities and establishments dealt with above.

§ 1. — Principle of the Compensatory Rest

The fundamental principle of such systems is raised in a question suggesting, subject to the replies that may be given to subsequent questions, that any work done in virtue of some special system during the period normally prescribed for the weekly rest should entitle the worker to a compensatory rest. The reason for this principle is that any special system is the *normal* system of granting the weekly rest for the establishments or activities concerned. Since persons employed in such establishments or engaged in such activities cannot have a weekly rest in the same circumstances as workers covered by the general system, they must be granted some other rest or some compensation of another kind to make up for the work they do on the day generally prescribed for the weekly rest.

The principle has been given quite general recognition in national regulations, so far as these do not entirely exclude from the scope of the provisions concerning the weekly rest certain establishments for which the Office suggests that a special system should apply. It does not seem possible to refuse time off in compensation for work done on Sundays by workers who are within the scope of the proposed international regulations and have to work *regularly* on that day. To deprive them of such compensation would amount to excluding them from the scope of the international regulations. As will be seen later, the Office suggests, nevertheless, than when the work only lasts a short time, an exception should be made to the rule providing that compensation should be granted for all work done on Sundays.

The granting of compensation for work done on the day generally set aside for the weekly rest is, in fact, the main problem that arises in the organisation of special systems and it is one of the most important features of the proposed international regulations. It was discussed at length at the Third Session of the International Labour Conference in 1921 when the

Convention concerning the weekly rest in industrial undertakings was drawn up. As a result of the discussions that took place both in the Committee on the weekly rest and in the plenary sitting of the Conference, an article, worded as follows, was finally inserted in the Convention:

Article 5

Each Member shall make, as far as possible, provision for compensatory periods of rest for the suspensions or diminutions made in virtue of Article 4, except in cases where agreements or customs already provide for such periods.

The "suspensions or diminutions" of the weekly rest mentioned in this Article are dealt with in the following questions in the Questionnaire.

§ 2. — Length of the Compensatory Rest

In accordance with the provisions contained in the great majority of the national regulations, and subject to the exceptions mentioned later, the Office suggests that the minimum length of the compensatory rest should be fixed at 24 consecutive hours, this being the figure contemplated for the normal system of weekly rest.

In some cases, however, it may be necessary to provide that this period may be broken up; in fact, several national laws and regulations make such provision for some classes of establishments or activities. Governments are asked to say whether, in cases specified by the competent authority, it would be expedient to grant the compensatory rest in two periods of 12 hours each.

§ 3. — Exceptions to the Principle of the Compensatory Rest

In some establishments and activities, work done during the period normally set aside for the weekly rest may be limited to a number of hours less than those fixed for working days. Thus, the sale of some foodstuffs such as milk or bread, and the work done by postal staff, hairdressers' assistants, and employees in bath establishments, etc., is in some cases only allowed during a few hours of the day. In such cases the weekly rest of the persons concerned is merely reduced without being entirely suppressed. Clearly the compensatory rest granted to such

classes of workers need not amount to 24 hours as in the case of whole-time work on Sundays. Some laws and regulations do not provide for any compensation in the case of work lasting less than a certain number of hours; sometimes the compensatory rest is equivalent in length to the work done; in other cases the worker is only entitled to cash compensation in the form of increased wages.

The Office feels that Governments should be free to choose between these different alternatives. It therefore suggests that exceptions might be made to the principle of the compensatory rest or to the rule as to its duration in cases where the work done on the day generally prescribed for the weekly rest does not last longer than three hours. Whenever the work lasts longer than three hours, the workers would therefore be entitled to a normal compensatory rest.

Another exception to the principle of the compensatory rest consists in the granting of a cash remuneration for work done on Sundays. This solution is rather exceptional in the case of *regular* work on Sundays. The needs of the service, however, may be such that it is impossible to grant the compensatory rest within the time prescribed; sometimes, too, the higher rate of wages applies when the work only lasts a few hours (in postal services, for instance). The substitution of a cash remuneration for the compensatory rest should, however, only be permitted in quite exceptional cases. It is on that understanding that a question dealing with this point has been inserted in the Questionnaire.

§ 4. — Interval between Compensatory Rest

When work is done on a Sunday, the compensatory rest is normally granted during the week following that Sunday. If the establishment employs a certain number of workers, the rest may be granted to them in rotation, in which case it is usually provided that the rest day shall be granted on a Sunday or public holiday so many times a month or year.

The Office suggests the adoption of the principle that two weekly rests should be granted in every fortnight. This amounts to one weekly rest a week. If, however, a worker who has had a Sunday off has to work on the following Sunday and only receives his compensatory rest during the week following the Sunday on which he worked, more than seven days will elapse

between the two rest days. Thus the "normal" system of compensatory rest provides for two days of rest every fortnight.

By way of exception to the normal system, the Office suggests that weekly rests might be calculated as an average over a four-weekly period. This system would apply only to establishments and activities specified by the competent authority when circumstances did not permit of applying the normal system of compensatory rest. The four rest days might be taken either separately or consecutively. In practice, both systems are used.

In establishments that are dependent on seasonal conditions, the provision that weekly rests may be accumulated over a period of four weeks will not always permit of meeting pressure of work in the height of the season. In several countries, the staff of such establishments are, for a certain number of weeks or months, granted fewer weekly rests or rests of shorter duration, leave being given in compensation for the rest days that have been shortened or withdrawn.

The solutions proposed by the Office take all these possible methods into account. They provide, in the case of establishments dependent on seasonal conditions, for a system which would enable the weekly rest days to be spread over a number of weeks to be determined by the competent authority. These rest periods might either be granted separately or be accumulated and granted in the form of leave. The total length of the rest periods should amount to a number of periods of rest of 24 hours at least equal to the number of weeks over which the periods of rest are distributed.

V. — *EXCEPTIONS TO THE WEEKLY REST*

It has already been stated that provision will have to be made in the international regulations, as in national regulations, both for a general system of weekly rest and for special systems to meet the particular needs of specified classes of establishments or activities. Both in the general and in the special systems, the rules laid down are permanently applicable and constitute the normal method of granting the weekly rest to the workers concerned.

Nevertheless, in some cases, it is impossible for purely accidental reasons, which sometimes cannot be foreseen, to

apply the normal provisions laid down in either a general or a special system. As a result temporary exceptions have to be allowed, as is recognised in the national laws and regulations, which, however, make them subject to certain rules so as to prevent abuses. It does not seem that the problem can be ignored in international regulations; here, too, the necessary measures will have to be taken to see that the exceptions do not exceed a strict minimum and that reasonable compensation is granted.

Accordingly Governments are asked to say whether the international regulations should provide that the competent authority in each country may authorise the persons covered by the regulations to work during the usual weekly rest period under a general or a special system.

REASONS FOR EXCEPTIONS

There are many different reasons for permitting exceptions in the national regulations. It seems expedient to provide in the international regulations for exceptions to the weekly rest in the case of urgent work which must be performed immediately, particularly:

- (a) to prevent a threatened accident or to repair an actual accident, or in case of *force majeure*;
- (b) to organise rescue or relief work necessitated by calamity or disaster;
- (c) to satisfy public needs;
- (d) to meet extraordinary cases of pressure of work;
- (e) to prevent the deterioration or loss of raw materials or manufactured goods;
- (f) to carry out liquidations, transfers, etc.;
- (g) to carry out work necessary for stocktaking, the preparation of balance sheets, settlement days and the balancing and closing of accounts;
- (h) to satisfy needs based on the proximity to a public holiday or on the coincidence of the rest day with markets, fairs, exhibitions, etc.

It is hardly necessary to examine all these circumstances in detail, since it goes without saying that when exceptions,

cases of *force majeure* or calamities occur, work must be permitted during the period normally prescribed for the weekly rest.

The same applies to private undertakings or public services which have to meet urgent needs in the interests of the community.

National regulations likewise allow exceptions to meet extraordinary pressure of work, to preserve products that are liable to rapid deterioration, such as vegetables and fruit, or to carry out special operations, such as stocktaking or the preparation of balance-sheets. Lastly, exceptions are frequently allowed when the weekly rest day precedes or follows certain public holidays, such as Christmas or Easter, or coincides with market days, fairs or exhibitions.

Since Governments may think it necessary to provide for exceptions in cases that have not been mentioned above, they are asked to say whether they have other suggestions to make, and if so, to mention the cases for which provision should be made.

SCOPE OF EXCEPTIONS

Owing to the diversity of the legal provisions, it is hard to determine in international regulations the exact scope of the exceptions to the normal system. That is why Governments are asked to say whether they think the competent authority should be required to determine, in each of the cases for which an exception is allowed, whether the weekly rest shall be entirely suppressed, as may be necessary for instance in the event of accidents, or whether it should merely be reduced, and in the latter alternative, to what extent. The extent may be fixed with reference either to the period during which the exception may be made use of or to a minimum period of rest.

COMPENSATION FOR EXCEPTIONS

Again owing to the diversity of the cases in which national regulations provide for exceptions, it will hardly be possible for the international regulations to prescribe the compensation for work done during the period in which the weekly rest is normally granted. Accordingly Governments are asked to say whether the competent authority should be required to deter-

mine the cases where exceptions are allowed in which the work performed during the usual weekly rest period carries with it the right to compensation.

Governments are also asked to say whether in their view the competent authority should have to determine the nature of such compensation. It seems very hard to lay down a general rule. It would appear from the examination of the national regulations that the form of compensation which is most appropriate to the end in view would be the granting of time off for the work done. In this way the workers in question would be given the same advantages, at least so far as their health is concerned, as those who take their rest on the usual day. However, some national regulations provide that work done exceptionally during the period normally prescribed for the weekly rest should be considered as overtime and paid for at a higher rate of wages than is normally payable.

Since national regulations provide for both the forms of compensation mentioned above, it would seem preferable to give the competent authority a choice. If the authority feels that the compensation should take the form of rest, it would fix the length of that rest and its arrangement. It might have to determine whether it should be granted collectively or individually according to a rotation system, on a Sunday or on some other day, and indicate the period within which the compensatory rest should be given. If the competent authority decides that compensation should take the form of a higher rate of pay, it would fix either a single rate of increased pay for all work done during the usual weekly rest period, or different rates according to the circumstances, for instance, according to the number of hours worked and whether the work was done by day or by night.

VI. — *SPECIAL PROVISIONS FOR CERTAIN COUNTRIES*

Article 19, paragraph 3, of the Constitution of the International Labour Organisation states that "in framing any Recommendation or Draft Convention of general application, the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organisation, or other special circumstances make the industrial

conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries”.

Provisions based on this Article have been included in a number of Conventions adopted by the Conference whenever it was considered that the general principles of the Convention in question needed modification in their application to certain countries.

It would not appear that the climatic conditions or the state of industrial organisation of any country are such as to prevent the application of the principle of a weekly rest of at least 24 consecutive hours in commerce and offices.

Nevertheless, the Office considers that Governments should be asked whether they consider any special provisions necessary for the countries contemplated in the Article quoted above in order that the Conference, which is called upon by the Constitution to have due regard to the position of certain countries, may have the opinion of the Governments before it.

Further, if any Government considers that special provisions should be introduced in the international regulations to meet the particular conditions existing in its own country, in accordance with Article 19, paragraph 3, of the Constitution, it is asked to state the special provisions which would be required.

VII. — SAFEGUARDING CLAUSE

The Constitution of the International Labour Office lays down in Article 19, paragraph 11, the principle that in no case shall any Member be asked, as a result of the adoption of any Recommendation or Draft Convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned. That principle has been inserted, as a special provision, in a great many international regulations adopted by the Conference in recent years.

Accordingly, Governments are asked to say whether they think that the contemplated international regulations should include the following clause:

In accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by this Convention.

VIII. — *SUPERVISION OF THE APPLICATION OF THE REGULATIONS*

Just as national regulations concerning the weekly rest contain provisions to ensure their application, so it is essential that the contemplated international regulations should include appropriate measures to ensure effective application in the ratifying States. While such measures only constitute a minimum of supervision, they are also necessary to ensure as uniform an application as possible of the international regulations in the diverse circumstances, situations and contingencies that may arise nationally.

The documentary part of the present Report shows that the national measures for the supervision of the application of regulations concerning weekly rest in the establishments covered differ considerably, if not in general principles, at any rate in method. Accordingly the international regulations should lay down effective but simple rules and avoid going into details that would make it practically impossible, or at least, very difficult to adjust the national to the international regulations. The difficulty might be such that some countries would prefer not to be bound by the international Convention rather than to reorganise entirely a system of application and supervision with which they are thoroughly satisfied.

All that need be done is to ensure that each of the workers covered by the international regulations shall have a weekly rest in the circumstances provided for in the general or special system by which he is covered, that exceptions shall be restricted to an indispensable minimum, and that adequate compensation shall be granted to any worker who is deprived by the operation of an exception of all or part of his normal weekly rest.

The application of the systems contemplated in these conclusions with a view to the framing of international regulations — these being based on national regulations — will in practice, and so far as the situation is a normal one, lead to one of three possible methods:

1. The entire staff of the establishment (apart from some persons detailed for watch-keeping or other permanent services) or part of the staff will collectively have a weekly rest on the day usually set aside for that purpose as a matter of custom, or on some other day;

2. The weekly rest will not be taken collectively by the whole staff or part of the staff, and a rotation system will have to be instituted;
3. Various systems will be applied which involve either the breaking up of the day of rest into spells, or the accumulation of rest days, or a shortening of the rest.

Lastly, the exceptions for which the international regulations may provide, subject to compensation in the form of a compensatory rest or of special remuneration, must be taken into account.

Although all the national regulations provide for measures of supervision, they do not all distinguish between these various methods of application. Some provide for general measures of supervision, while others prescribe different measures in different cases; others again have only organised supervision for certain special systems or exceptions. It seems, however, that the international regulations might provide for measures of supervision which would be sufficiently flexible and would apply respectively in the various circumstances mentioned above and in the case of exceptions. In the latter case, different measures would have to be prescribed according as compensation is given in the form of time off or of special remuneration.

For each method of application, the measures of supervision required might provide, with respect either to all workers or to groups of workers or to individual workers, that the day or the period of weekly rest due under the system applied should be indicated, together with the hours at which work ceases and is resumed, these particulars being needed in order to check the exact length of the rest. In the case of exceptions, the hours of work performed on the rest day would have to be indicated and, according to circumstances, the period or periods of compensatory rest granted or the amount of the increased remuneration.

The employer should be required to notify such information either by the posting of notices, by the keeping of records or otherwise, in such a way as to permit of its being freely inspected by the persons concerned and by the national supervisory authority. There would be no need to specify the nature of the document in the international regulations since, in practice, its two main forms would be a time-table or a record. It does not seem essential that the international regulations should in

this respect go into details which might make it necessary for States wishing to ratify the Convention to modify national systems of supervision whose efficiency had been proved. Nevertheless it seems that the special remuneration allowed in the case of exceptions would have to be specially recorded. The only safeguard that ought to be prescribed in the international regulations is that the exact nature of the record, the manner in which it should be drawn up or kept, and the way in which the workers concerned or the supervisory authorities might inspect it should be regulated by the competent national authority, or at least approved by that authority.

Governments are asked to state their views as to the measures of supervision contemplated and to make any useful suggestions in that respect.

These measures are somewhat different from those instituted by the 1921 Convention concerning the weekly rest in industrial undertakings, which provides in this connection that the employer shall be obliged: (a) where the weekly rest is given to the whole of the staff collectively, to make known such days and hours of collective rest by means of notices posted conspicuously in the establishment or any other convenient place or in any other manner approved by the Government; and (b) where the rest period is not granted to the whole of the staff collectively, to make known by means of a roster drawn up in accordance with the method approved by the legislation of the country, or by a regulation of the competent authority, the workers or employees subject to a special system of rest, and to indicate that system.

The measures now suggested are stricter, since clearly the application of the weekly rest is much more complicated in the establishments to be covered by the international regulations now contemplated than in the industrial establishments covered by the 1921 Convention. The application of the measures would not, however, seem likely to raise difficulties.

It does not appear to be expedient for the international regulations to go further as regards the supervision of the application of the regulations. The supervision of closing hours, for instance, seems to be outside the scope of regulations that deal only with the weekly rest. Moreover, the way in which supervision is exercised (the nature of the supervisory authorities; the rights, powers or competence of those authorities; penalties, etc.) depend so much on the administrative or judicial organisa-

tion of each country that no provision could usefully be made in the international regulations without some risk of hindering ratification and substantially restricting the number of States which would be prepared to ratify the Convention.

IX. — *SUSPENSION OF THE APPLICATION OF THE REGULATIONS*

Some national regulations concerning the weekly rest provide that their application may be suspended in exceptionally serious circumstances. Governments are requested to say whether the proposed international regulations should likewise provide that their application may be suspended in order to meet the requirements of national safety.

The suspension of the application of the international regulations is a particularly grave measure, which might have serious effects on economic relations between the country concerned and other countries. Accordingly, it would no doubt be necessary that the International Labour Office and, through the Office, the States that have ratified the proposed international regulations should be informed of any use made by a State of the provision permitting the suspension of the application of the regulations.

Governments are therefore asked to say whether they agree that a Member which has decided to take such a measure should be required immediately to inform the International Labour Office of such suspension, together with the reason for which the decision had to be taken. Governments should also say whether they consider that the Office should be informed of the date from which the suspension has been terminated.

X. — *ANNUAL REPORTS*

The purpose here is to facilitate the international supervision of the enforcement in ratifying States of the proposed Draft Convention. Under Article 22 of the Constitution of the International Labour Organisation, the Governing Body of the International Labour Office must determine the form of the annual reports to be supplied by Member States which have ratified the Draft Convention on the measures of application they have had to take. It seems desirable however to specify

in the proposed international regulations a number of important points on which information concerning the decisions taken by the competent national authorities would undoubtedly be necessary in order to permit of effective international supervision. It follows from the preceding questions that the points to be specified might deal with:

exemption of establishments and persons from the scope of the regulations, and the conditions under which such exemptions are granted;

any special systems established with an indication of the classes of establishments or activities covered and a description of the systems;

any exceptions, with an indication of the cases in which such exceptions are allowed, suppressions or reductions of the rest period and the compensation granted;

any recourse to the special provisions for certain countries.

Governments are asked to express their views as to the principle of stating in the international regulations what information should be supplied in the annual reports. If they approve of the principle, Governments are asked to say whether in their view the information specified above should be given in the said reports.

CONSULTATION OF GOVERNMENTS

The foregoing analysis of the problems which might be dealt with by international regulations permits of fixing as completely as possible the questions suitable for the consultation of Governments in conformity with the provisions of Article 6 of the Standing Orders of the Conference.

Taking into account the conclusions reached above and the methods of solution on which international agreement may be possible, the Office has drawn up the following questions to which Governments are requested to reply, giving their reasons.

It should be emphasised that Article 6, paragraph 16 of the Standing Orders of the Conference now contains a provision inviting Governments to "give reasons for their replies".

Experience has shown that the brief replies, consisting often of a mere affirmative or negative, given by many Governments, rendered the preparation of texts for submission to the Conference a very difficult task. The grounds on which Governments based their affirmative or negative attitude remained in many cases unknown, and a factor which would have been valuable to the Office in drafting its texts and to delegates with a view to forming an opinion on them was consequently lacking.

Governments are therefore requested to take account of this provision and to indicate, in brief at least, the reasons for their replies.

The procedure to be followed, in accordance with the Standing Orders of the Conference, for the examination of the weekly rest in commerce and offices is indicated in the Introduction to this Report.

QUESTIONNAIRE

I. — FORM OF THE REGULATIONS

1. Do you consider it desirable that the International Labour Conference should adopt, in the form of a Draft Convention, international regulations on the weekly rest in commerce and offices ?

II. — SCOPE

SCOPE AS REGARDS ESTABLISHMENTS

Methods of Determination of Scope

2. Do you consider that the scope of the international regulations should be determined by enumeration of the classes of establishments in which are employed the manual and non-manual workers, including apprentices, to be covered ?

Classes of Establishments to be Covered

3. Do you consider that the international regulations should apply to the following classes of establishments, whether public or private :

- (a) commercial establishments, including establishments engaged wholly or mainly either in the purchase or sale at wholesale or retail of goods of any kind, or in the provision of personal services ?
- (b) offices, including establishments engaged wholly or mainly either in the insurance, negotiation, loan or administration of goods of any kind, or in the provision, distribution or transmission of news or information of any kind ?
- (c) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses ?
- (d) establishments for the treatment or care particularly of the sick, infirm, mentally unfit, aged or destitute, or of orphans ?
- (e) theatres and places of public amusement ?
- (f) sports establishments ?
- (g) museums, libraries, art galleries and other similar establishments ?

4. Do you consider that there are any other classes of establishments to which the international regulations should apply ?

Possible Exemptions

5. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations public administrations engaged in the administration of public authority ?

6. (a) Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations itinerant establishments ?

(b) If the reply is in the affirmative,

(i) do you consider that the proposed exemption should be general and extend to all itinerant establishments ?

or, on the contrary,

(ii) do you consider that the proposed exemption should be limited to certain classes of itinerant establishments, and if so, to which classes ?

7. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations establishments where only members of the employer's family are employed, in so far as they are not in receipt of a wage or salary ?

8. Do you consider that there are any classes of establishments other than those referred to in Questions 5, 6 and 7 which the competent authorities should be permitted to exempt ?

SCOPE AS REGARDS PERSONS

9. Do you consider that the international regulations should apply to all manual and non-manual workers, including apprentices, employed in the establishments covered ?

Possible Exemptions

10. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations :

(i) persons occupied in a position of management ?

(ii) persons occupied in a confidential capacity ?

11. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations travellers and representatives in so far as they carry on their work outside the establishment ?

12. Do you consider that there are any classes of persons other than those referred to in Questions 10 and 11 which the competent authority should be permitted to exempt ?

III. — GENERAL SYSTEM OF WEEKLY REST

13. Do you consider that the international regulations should provide for the principle of an uninterrupted period of weekly rest in every period of seven days ?

14. Do you consider that the international regulations should provide :

- (a) that this period of rest should, wherever possible, be granted simultaneously to the whole of the staff of each establishment ? and
- (b) that it should, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district ?

15. (a) Do you consider that the international regulations should fix the minimum length of the weekly rest at 24 consecutive hours ?

(b) If not, what other figure do you suggest ?

IV. — SPECIAL SYSTEMS OF WEEKLY REST

16. Do you consider that the competent authority in each country should be permitted to establish special systems of weekly rest for certain classes of establishments and activities meeting needs which have to be satisfied during the usual weekly rest period in the same way as on working days ?

ESTABLISHMENTS AND ACTIVITIES COVERED

17. Do you consider that the competent authority in each country should be permitted to apply special systems to the following classes of establishments :

(a) commercial establishments :

(i) wholesale trade in perishable goods ?

(ii) retail trade in foodstuffs ?

(iii) retail trade in goods of prime necessity other than foodstuffs ?

(iv) essential services ?

(b) travel and tourist agencies, money-changing offices, and the offices of shipping companies ?

(c) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses ?

(d) establishments for the treatment or care particularly of the sick, infirm, mentally unfit, aged or destitute, or of orphans ?

(e) theatres and places of public amusement ?

(f) sports establishments ?

(g) museums, libraries, art galleries and other similar establishments ?

(h) postal and telecommunication services ?

(i) newspaper undertakings and press agencies ?

(j) hairdressers' establishments ?

(k) bath establishments ?

18. Do you consider that the competent authorities in each country should be permitted to apply special systems to the following classes of establishments :

(a) establishments dependent on seasonal conditions ?

(b) establishments situated in rural areas ?

19. Do you consider that the competent authority in each country should be permitted to apply special systems to the following activities :

- (a) preparatory and complementary work which must necessarily be carried on outside the limits laid down for the general work of the establishment, part of establishment or shift ?
- (b) essentially intermittent work which by its nature consists of long periods of inaction during which the persons concerned have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls ?

20. Do you consider that the competent authority in each country should be permitted to apply special systems to classes of establishments or activities other than those referred to in Questions 17, 18 and 19 ?

COMPENSATORY REST UNDER SPECIAL SYSTEMS

21. Do you consider that, subject to the replies to Questions 24 and 25, work performed in virtue of a special system during the usual weekly rest period should imply a right to a compensatory rest ?

22. Do you consider that, subject to the replies to Questions 23, 24 and 25, the length of the weekly rest of persons subject to a special system should amount to at least 24 consecutive hours ?

23. Do you consider that, for classes of establishments or activities to be determined in each country by the competent authority, and when circumstances so require, it should be possible to grant the compensatory rest in two periods of 12 hours ?

24. Do you consider that, when not more than three hours have been worked during the usual weekly rest period, the competent authority in each country should be permitted to authorise exceptions to the provisions which may arise out of Questions 21 and 22 ?

25. Do you consider that, for categories of workers to be determined in each country by the competent authority, and when circumstances are such that, exceptionally, the compensatory rest cannot be granted, this rest can be replaced by compensation in cash ?

26. Do you consider that the compensatory rest referred to in Questions 21 and 22 should be granted in such a manner as to ensure that workers subject to a special system should receive two periods of 24 consecutive hours of rest during any period of 14 days ?

27. (a) Do you consider that, for classes of establishments or activities to be determined in each country by the competent authority, and when circumstances so require, it should be possible to grant the periods of compensatory rest in such a manner as to ensure that the workers concerned receive in any period of 28 days one or more rest periods the total length of which will amount to at least four periods of 24 hours ?

(b) Do you consider that, for establishments or activities dependent on seasonal conditions, the competent authority in each country may permit the weekly rest to be granted to the workers concerned in the form of one or more periods of rest in the course of a number of weeks to be determined, the total length of the rest periods amounting to a number of periods of rest of 24 hours at least equal to the number of weeks over which the said periods of rest are distributed ?

V. — EXCEPTIONS TO THE WEEKLY REST

28. Do you consider that the international regulations should provide that the competent authority in each country may authorise persons covered by the regulations to work during the usual weekly rest period in case of urgent work which has to be carried out immediately, in particular

- (a) to avoid a threatened accident or to repair an actual accident, or in case of *force majeure* ?
- (b) to organise rescue or relief work necessitated by calamity or disaster ?
- (c) to satisfy public needs ?

- (d) to meet extraordinary cases of pressure of work ?
- (e) to prevent the deterioration or loss of raw materials or manufactured goods ?
- (f) to carry out liquidation, transfers, etc. ?
- (g) to carry out work necessary for stocktaking, the preparation of balance sheets, settlement days and the balancing and closing of accounts ?
- (g) to satisfy needs based on the proximity to a public holiday or on the coincidence of the rest day with markets, fairs, exhibitions, etc. ?

29. (a) Do you consider that there are cases other than those referred to in Question 28 in which work should be permitted during the usual weekly rest period ?

(b) If the reply is in the affirmative, in which other cases do you consider that such work should be permitted ?

30. Do you consider that the competent authority in each country should be required to determine in each of the cases referred to in Questions 28 and 29

- (a) whether the weekly rest is to be suppressed, or
- (b) whether the weekly rest is to be reduced, and if so, to what extent ?

31. Do you consider that the competent authority in each country should be required to determine the cases referred to in Questions 28 and 29 in which the work performed during the usual weekly rest period carries with it the right to compensation ?

32. Do you consider that the competent authority in each country should be required to determine the nature of the compensation by laying down in each case

- (a) the length and arrangement of the compensatory rest, or
- (b) the higher rate or rates of remuneration for work performed during the usual weekly rest period ?

VI. — SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

33. (a) Do you consider that the international regulations should include, in accordance with Article 19, paragraph 3, of the Constitution of the International Labour Organisation, any special provisions for countries in which climatic conditions, the imperfect development of industrial organisation, or other special circumstances make conditions substantially different ?

(b) Do you consider that the international regulations should include any such special provisions in respect of your country, and, if so, which provisions ?

VII. — SAFEGUARDING CLAUSE

34. Do you consider that the international regulations should include an Article providing that in accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in the international regulations shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions for the workers than those provided for in such regulations ?

VIII. — SUPERVISION OF THE APPLICATION

35. Do you consider that the international regulations should provide that the employer should be required to notify in a manner approved by the competent authority by the posting of notices, the keeping of records, or otherwise :

- (a) if the weekly rest is granted collectively to all the persons engaged in the establishment, or to certain groups of them, the usual weekly rest day with an indication of the hours on which work ceases and is resumed ?
- (b) if, in virtue of any special system referred to in Questions 16 to 27, the weekly rest is not granted collectively to all persons engaged in the establishment, or to certain groups of them, the day on which each group of persons or each person is granted the rest with an indication of the hours at which work ceases and is resumed ?

- (c) if any special system referred to in Questions 16 to 27 is applied which involves a division of the weekly rest, an accumulation of rest days or a diminution of the weekly rest, the rest periods of each person or group of persons concerned with an indication of the hours on which work ceases and is resumed ?
- (d) if recourse is had to any exceptions referred to in Questions 28 to 32 involving the grant of a compensatory rest, the hours of work performed on the rest day and the period or periods of compensatory rest granted ?

36. Do you consider that the international regulations should provide that the employer should be required to keep a record in the form approved by the competent authority in which there shall be included in respect of each person concerned the hours worked by such person on the weekly rest day which give rise to a higher rate of remuneration and the payment made in respect thereof ?

IX. — SUSPENSION OF THE REGULATIONS

37. Do you consider that the international regulations should provide that any member of the International Labour Organisation may suspend the operation of the provisions of the international regulations in case of necessity for meeting the requirements of national safety ?

38. Do you consider that any member of the International Labour Organisation which has had recourse to the measures of suspension referred to in Question 37 should be required to notify the International Labour Office immediately of :

- (a) any suspension of the operations of the provisions of the regulations, together with the reasons for such suspension ? and
- (b) the date from which such suspension has been terminated ?

X. — ANNUAL REPORTS

39. Do you consider that the international regulations should contain an indication of the information which should

be given in the annual reports presented in execution of Article 22 of the Constitution of the International Labour Organisation on the measures taken for the control of the application of the international regulations ?

40. If the reply to Question 39 is in the affirmative, do you consider that the reports in question should include more particularly information concerning :

- (a) exemptions provided in the scope of the regulations and the conditions under which these exemptions are granted ?
- (b) any special systems established with an indication of the classes of establishments or activities covered and a description of the systems ?
- (c) any exceptions allowed, the suppressions or diminutions of the rest period, and the compensation, if any, granted ?
- (d) any recourse to the special provisions for certain countries ?